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**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES

**WHEN RECORDED MAIL TO**  
**PERMIT INTAKE**  
**MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-5990

PLANNED DEVELOPMENT PERMIT NO. 514696  
NEIGHBORHOOD USE PERMIT NO. 518933  
CONDITIONAL USE PERMIT NO. 518932  
SITE DEVELOPMENT PERMIT NO. 519775

AMENDMENT TO

PLANNED DEVELOPMENT PERMIT NO. 308092  
NEIGHBORHOOD USE PERMIT NO. 327436  
CONDITIONAL USE PERMIT NO. 308101  
SITE DEVELOPMENT PERMIT NO. 308102

**CITY HEIGHTS SQUARE AMENDMENT – PROJECT NO. 146605 [MMRP]**

CITY COUNCIL

**DRAFT**

This Planned Development Permit (PDP)/Neighborhood Use Permit (NUP)/Conditional Use Permit (CUP)/Site Development Permit (SDP) is granted by the City Council of the City of San Diego to the CITY HEIGHTS REALTY, LLC, A CALIFORNIA NOT-FOR-PROFIT CORPORATION, AND THE CITY OF SAN DIEGO REDEVELOPMENT AGENCY, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] Sections 126.0602, 126.0203, 126.0303, and 126.0502. The 2.78-acre site is located between Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue, in the CT-2-3 and the CU-2-3 Zones (proposed CU-2-4 Zone) of the Central Urbanized Planned District, within the City Heights neighborhood of the Mid-City Communities Plan. The project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish existing structures and construct a mixed-use development,

described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated 05/16, on file in the Development Services Department.

The project or facility shall include:

- a. The construction of an approximately 302,497-square-foot, mixed-use development consisting of 151 senior residential units, a medical clinic, and retail/office/multi-family residential apartments in three buildings, parking, and an approximately 5,432-square-foot recreational area;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Deviations for side setback; street side setback, rear yard, transparency requirements, parking, off-street loading requirements, and landscape planter size requirements;
- e. The encroachment of the subterranean parking structure for Building 2 into the alley right-of-way;
- f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

This project consists of four distinct building projects on separate legal parcels, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated \_\_\_\_\_, on file in the Development Services Department. This project has been previously-approved on June 28, 2005 and subsequently amended on April 20, 2006; accordingly, components of this project have been accomplished. This Permit acknowledges that each individual project may be constructed in phases, with separate and not necessarily concurrent schedules. Where permit conditions apply to site specific development conditions, fulfillment of the condition requirements shall apply to the individual project seeking a building permit or occupancy, as identified in the following requirements and conditions. The required satisfaction of conditions for any phase of the project shall be at the sole discretion of the City Manager.

#### **STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder

3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of each building or grading permit, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All relevant conditions of Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102 (Project No. 95232) shall remain in full effect unless otherwise conditioned in this permit (Project No. 146605).

10. This project shall conform with the provisions of Community Plan Amendment No. 518922 and Rezone No. 518921.

11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in

order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act (ADA) requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

13. This project shall conform with the provisions of Easement Vacation No. 116930. No building permits shall be issued prior to the recordation of Easement Vacation No. 116930.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

14. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

15. As conditions of Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775 (An Amendment to Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102), the mitigation measures specified in the MMRP, and outlined in MITIGATED NEGATIVE DECLARATION NO. 146605, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the SUBSEQUENT ADDENDUM TO A MITIGATED NEGATIVE DECLARATION NO. 146605 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Health and Safety  
Paleontology  
Transportation/Circulation/Parking  
Waste Management

17. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

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18. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

#### **AFFORDABLE HOUSING REQUIREMENTS:**

19. Prior to receiving the first residential building permit for each residential structure, the applicant shall comply with the Affordable Housing Requirements of the City's Density Bonus Affordable Housing Requirements pursuant to California Government Code Sections 65915-65918 and San Diego Municipal Code Chapter 14, Article 3, Division 7.

20. The project is subject to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The project will also be subject to an Agreement with the City of San Diego Redevelopment Agency, which includes deed restrictions equivalent or more stringent than the Inclusionary Housing restrictions. The inclusionary ordinance is not cumulative to (or in addition to) the Agreement with the City of San Diego Redevelopment Agency. In the event that the project does not fulfill the terms of the Redevelopment Agency restrictions due to default, foreclosure, or cancellation/dissolution of the Redevelopment Agency participation or for any other reason(s) prior to their satisfaction, the inclusionary requirements will apply to the project. In such event, the project owner will be required to enter into an affordable housing agreement with the San Diego Housing Commission to provide 10% of the units as affordable on-site; an in-lieu fee option will not be available.

#### **ENGINEERING REQUIREMENTS:**

21. Prior to building occupancy, the applicant shall dedicate 3.5 feet of right-of-way along Polk Avenue to the satisfaction of the City Engineer.

22. Prior to building occupancy, a dedication of 2 feet will be required along the property frontage on University Avenue, as necessary, to provide for a 10-foot curb-to-property line distance along this frontage, to the satisfaction of the City Engineer.

23. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the applicant to provide the right-of-way free and clear of all encumbrances and prior easements, to the satisfaction of the City Engineer. Generally, the Applicant must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.

24. Prior to the issuance of a building permit for each individual building site, the applicant shall obtain a grading permit for the grading proposed for that site, to the satisfaction of the City Engineer. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

25. This project proposes to export approximately 79,500 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.

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26. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.

27. Prior to the issuance of any construction permit, the Applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code into the construction plans or specifications.

28. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

29. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.

30. Prior to the issuance of each construction permit the Applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMPs) on the final construction drawings, in accordance with the approved Water Quality Technical Report, to the satisfaction of the City Engineer.

31. Prior to occupancy of each building, the Applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, to the satisfaction of the City Engineer.

32. Prior to occupancy of Building 1, the Applicant shall construct concrete bus pads in accordance with MTDB Design Guidelines and City of San Diego Standard Drawing SDG-102 at the stops near the corner of Fairmount and University Avenues and the corner of 43rd Street and University Avenue, to the satisfaction of the City Engineer.

33. Prior to occupancy of each building, the Applicant shall reconstruct curb ramps in the abutting right-of-way in accordance with City Standard Drawing SDG-132 to the satisfaction of the City Engineer.

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34. Prior to occupancy of each building, the Applicant shall reconstruct the alleys abutting the project site, to the satisfaction of the City Engineer.

35. Prior to occupancy for Building 2, the Applicant shall construct curb ramps at the alley intersection with Fairmount Avenue, and prior to occupancy for Building 3, the applicant shall construct curb ramps at the alley intersection at Polk Avenue, to the satisfaction of the City Engineer. Construction of curb ramps will be required for both sides of the alley.

36. Prior to occupancy of each building, the Applicant shall replace the curb along the project frontage with City standard curb and gutter, satisfactory to the City Engineer.

37. Prior to occupancy of each building, the Applicant shall replace damaged sidewalks adjacent to the site, to the satisfaction of the City Engineer.

38. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-16 and SDG-100.

39. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for private drainage facilities in the public right-of-way, to the satisfaction of the City Engineer.

40. Prior to the issuance of building permits for Building 1 or Building 2, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for the proposed encroachments of subterranean parking structures within the alley right-of-way for Building 2, and into the public rights-of-way at the corner of 43rd Street and University Avenue, and the corner of Fairmount Avenue and University Avenue for Building 1, to the satisfaction of the City Engineer.

41. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer.

42. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide an exclusive northbound left-turn lane on Fairmount Avenue for the garage ramp between Building 1 and 2, to the satisfaction of the City Engineer.

43. Prior to the issuance of any building permit, the applicant shall provide a fairshare contribution towards the construction of an additional northbound right-turn lane, eastbound right-turn lane, eastbound left-turn lane and westbound left-turn lane at University/Euclid intersection to the satisfaction of the City Engineer.

44. Prior to the issuance of any building permit for Building 1 or Building 3, the applicant shall provide a shared parking agreement for three (3) parking spaces for the senior housing units in

Building 3 to be provided in Building 1, to the satisfaction of the City Manager. A Shared Parking Agreement should be provided for these spaces within the Building 1 parking structure. In the event that the Building 1 parking structure is not complete when Building 3 is ready to be occupied, the applicant shall submit an interim parking plan that provides for the three (3) spaces until the Building 1 parking structure is complete, to the satisfaction of the City Manager.

45. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide a mutual access agreement between the property owners of Building 1 and Building 2 for the use of the garage ramp (located on Building 1) to Building 2, to the satisfaction of the City Manager.

#### **LANDSCAPE REQUIREMENTS:**

46. In the event the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to meet the Landscape Regulations.

47. Prior to issuance of any construction permits for each structure (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) for each building shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit A, Landscape Development Plan, on file in the Office of Development Services.

48. Prior to issuance of construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual, Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

49. Prior to issuance of any construction permit for each parking structure, the Permittee shall submit on the planting and irrigation plans for each structure a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

50. Prior to issuance of each engineering permit for right-of-way improvements, except water and sewer relocation improvement plans, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

51. Prior to the issuance of engineering permits for water and sewer relocation improvement plans, plans shall be approved by the City Manager for landscape purposes. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.



52. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

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53. Prior to issuance of a Certificate of Occupancy for each building, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections, to the satisfaction of the City Manager. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

54. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

55. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

56. In the event that a foundation only permit is requested by the Permittee or Subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

57. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

58. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install and establish permanent erosion control in the future park area in the event construction of the park has not started.

#### **PLANNING/DESIGN REQUIREMENTS:**

59. No fewer than a total of 410 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

60. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit

establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

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61. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

62. Deviations approved:

- a. A 2'-3" side yard setback for Building 3 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;
- b. A 15'-0" street side yard setback along 43<sup>rd</sup> Street for Building 1 where a maximum of 10 feet is required for 30 percent of the street side yard, per SDMC Section 151.0242, Table 151-02D;
- c. A 6'-8" rear yard setback for Building 2 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;
- d. A deviation from the transparency requirements where 50 percent of the building wall between 3 feet and 10 feet above grade for Building 3 shall be transparent into a commercial or residential use, per SDMC Section 131.0552;
- e. A reduction of the required number of parking spaces (78 spaces provided where 81 spaces are required) for Building 3, per SDMC Section 142.0530; and
- f. A deviation from the off-street loading requirement for Building 2 to one space, where two spaces are required, per SDMC Section 142.1010(a).
- g. A reduction in the planter size from the required 40 square feet to approximately 22 square feet in the interior courtyard of Building 3, per SDMC Section 142.0403.

63. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

64. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

65. Housing for senior citizens (Building 3) shall meet the requirements of one of the following:

- a. "Housing for older person" as defined in 42 United States Code Section 3607(b) of the Fair Housing Act Amendments of 1988 and 24 code of Federal Regulations, section 100.304; or

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b. "Senior citizen housing development" as defined in Section 51.3 of the California Civil Code.

66. The senior housing is to remain affordable (as defined by the Housing Commission) to very-low income seniors in perpetuity. Prior to issuance of the building permit, the applicant is required to provide a copy of the agreement between all parties.

67. Overnight patients are not permitted at the Outpatient Medical Clinic (Building 2).

68. The Outpatient Medical Clinic shall remain closed between the hours of 12:00 midnight and 6:00 a.m.

69. All signs associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.

70. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

71. Parking areas shall be lighted for the safety of tenants. Lighting shall be of a design that deters vandalism. Prior to the issuance of the building permits, the location, type and size of the proposed lighting fixtures shall be specified on the construction plans.

72. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

73. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

74. All uses, except storage and loading and activities at the park, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

75. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

76. Prior to the issuance each building permit, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," on file in the Development Services Department.

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**PARK AND RECREATION REQUIREMENTS:**

77. Prior to issuance of Certificate of Occupancy for Building 3 (the senior housing facility), the applicant shall convey the deed to the park property to the Redevelopment Agency pursuant to the Disposition and Development Agreements and purchase agreements approved by the Redevelopment Agency on May 3, 2005, by Resolution Nos. R-03900, R-03901, R-03905 and R-03906.

78. Prior to issuance of Certificate of Occupancy for Building 3 (the senior housing facility), the applicant shall enter into an agreement with the City of San Diego to provide maintenance and operations for the park in perpetuity pursuant to the Disposition and Development Agreements on May 3, 2005, by Resolution Nos. R-03900 and R-03905, and shall run with the land in case of change of property ownership.

79. Prior to issuance of the Certificate of Occupancy for the final building, the applicant shall enter into an agreement with the City of San Diego to provide a General Development Plan and construction drawings for the park and associated recreational facilities. The General Development Plan shall be in substantial conformance with the most current edition of the City Park and Recreation Department's "Consultants Guide to Park Design and Development," and be in accordance with Council Policy 600-33, COMMUNITY NOTIFICATION AND INPUT FOR CITY-WIDE PARK DEVELOPMENT PROJECTS.

80. The construction drawings for the approved General Development Plan shall be in substantial conformance with the most current editions of the City of San Diego Standard Drawings, Standard Specifications for Public Works Construction (Greenbook), California Building Code and all federal, state and local codes and regulations.

81. Prior to issuance of any building permits, for the 92-unit mixed-use development (Building 1), the Owner/Permittee shall make a contribution in-lieu of the park portion of the Mid-City Development Impact Fee (DIF), in the amount of \$807,484 which is based on the anticipated increased per-unit DIF for the proposed updated Mid-City Public Facilities Financing Plan (PFFP), to satisfy the project's population-based park requirement. These funds shall be placed into an interest bearing account for parks in the City Heights area. This payment shall constitute advance payment of the park portion of the DIF.

**WASTEWATER REQUIREMENTS:**

82. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

83. Prior to the issuance of any grading or building permits, the developer shall relocate on-site public sewer mains, satisfactory to the Director of Public Utilities. All associated public easements shall be vacated, satisfactory to the Director of Public Utilities.

84. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

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85. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

86. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

#### **WATER REQUIREMENTS:**

87. Prior to the issuance of any building permits, including foundation, the Owner/Permittee shall assure, by permit and bond, the design and construction of new 12-inch public water facilities in Fairmount Avenue from University Avenue to Polk Avenue, in a manner satisfactory to the Water Department Director and the City Engineer.

88. Prior to the issuance of any building permits, including foundation, the Owner/Permittee shall cut, plug, and abandon the existing public water facilities, located within the easement to be vacated traversing the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

89. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any vehicular use area, in a manner satisfactory to the Water Department Director and the City Engineer.

90. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device on each water service, existing or proposed, in a manner satisfactory to the Water Department Director and the City Engineer.

91. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

92. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on the approved Exhibit "A," shall be modified at final engineering to conform to standards.

#### **REDEVELOPMENT AGENCY REQUIREMENTS:**

93. The developer shall comply with the requirements of the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and City Heights Square LP and the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and San Diego Revitalization Corporation, approved by the City Council and Redevelopment Agency on May 3, 2005, as long as these agreements are in effect, or as amended, including any attachments thereto.

94. The developer shall reserve the park parcel for the exclusive use as a public park, in accordance with a Purchase and Sale Agreement between San Diego Revitalization Corporation and the Redevelopment Agency, approved on May 3, 2005, the Redevelopment Agency shall acquire the park site from San Diego Revitalization Corporation for the purpose of conveying the site to the City for a public park.

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**INFORMATION ONLY:**

- This Development is subject to Development Impact Fees (DIF), the Mid-City Special Park Fee (SPF), and a Housing Trust Fund (HTF) fee. The fees in effect at the time building permits are issued will be the effective rate.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_ by Resolution No. \_\_\_\_\_.

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CITY COUNCIL  
RESOLUTION NO. \_\_\_\_\_PLANNED DEVELOPMENT PERMIT NO. 514696  
NEIGHBORHOOD USE PERMIT NO. 518933  
CONDITIONAL USE PERMIT NO. 518932  
SITE DEVELOPMENT PERMIT NO. 519775AMENDMENT TOPLANNED DEVELOPMENT PERMIT NO. 308092  
NEIGHBORHOOD USE PERMIT NO. 327436  
CONDITIONAL USE PERMIT NO. 308101  
SITE DEVELOPMENT PERMIT NO. 308102**CITY HEIGHTS SQUARE AMENDMENT – PROJECT NO. 146605 [MMRP]**

WHEREAS, CITY HEIGHTS REALTY, LLC, A CALIFORNIA NOT-FOR-PROFIT CORPORATION, AND THE CITY OF SAN DIEGO REDEVELOPMENT AGENCY, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish *existing structures and construct a mixed-use development (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 514696, 518933, 518932 and 519775)*, on portions of a 2.78-acre site;

WHEREAS, the project site is located at on the general block bounded by Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue in the CT-2-3 and the CU-2-3 Zones (proposed CU-2-4 Zone) of the Central Urbanized Planned District within the City Heights neighborhood of the Mid-City Communities Plan area;

WHEREAS, the project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28;

WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775, and pursuant to Resolution No. \_\_\_\_\_, voted to recommend City Council approval of the permit;

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

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BE IT RESOLVED by the City Council of the City of San Diego as follows:

That the City Council adopts the following written Findings, dated \_\_\_\_\_.

**PLANNED DEVELOPMENT PERMIT FINDINGS – SDMC SECTION 126.0604:**

**A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The project implements the MCCP recommendations for the provision of housing needs for seniors in the community and the provision of market-rate housing. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one on-site property manager's unit, as well as 78 market-rate residential units.

The MCCP envisions City Heights as a pedestrian-friendly community with urban plazas at key crossroads, including the intersections of 43<sup>rd</sup> Street and Fairmount Avenue with University Avenue. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.



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As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

**D. THE PROPOSED DEVELOPMENT, WHEN CONSIDERED AS A WHOLE, WILL BE BENEFICIAL TO THE COMMUNITY.**

The proposed mixed-use development is permitted at this location, as discussed within the applicable Mid-City Communities Plan and City Heights Redevelopment Plan. The proposed senior residential facility and retail/residential building will provide much needed housing that exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside more than 30% of the proposed units (150 affordable senior units, 14 affordable units, 78 market-rate units, and one manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of Area Median Income (AMI) and other low-income tenants. The

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affordable units would consist of 75 studio units and 75 one bedroom units that would be affordable in perpetuity, as well as 14 affordable units that would be affordable for 55 years.

The project is located within a facility deficient neighborhood. The recent adoption of the San Diego General Plan Update and its Recreation Element provided updated direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. The project provides a 5,432-square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 10,000-square-foot activity area. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School. Finally, the proposed multi-family residential use (Building 1) contains approximately 1,380 square feet of interior passive and recreation area.

The outpatient medical clinic will meet community needs by providing non-profit medical, dental and social service agency uses in this redevelopment area. The retail office buildings at the crossroads of University and Fairmount Avenues will provide quality uses within the area. Senior housing, employment opportunities and medical services, with more than adequate on-site parking, would be available in the same street block, thereby providing a benefit to the community as a whole. The overall appearance of new structures would be compatible with the architectural detail and appearance of the newer redevelopment project to the south, while still maintaining a sufficient transition to adjacent older uses.

**E. ANY PROPOSED DEVIATIONS PURSUANT TO SECTION 126.0602(B)1 ARE APPROPRIATE FOR THIS LOCATION AND WILL RESULT IN A MORE DESIREABLE PROJECT THAN WOULD BE ACHIEVED IF DESIGNED IN STRICT CONFORMANCE WITH THE DEVELOPMENT REGULATIONS OF THE APPLICABLE ZONE.**

The proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the proposed CU-2-4 Zone of the Central Urbanized Planned District. The side and rear setback deviations are minimal, and with the large scale of the project crossing various property lines and zones, result in a clearer, more consistent building design. The transparency deviation is necessary for the senior residential facility since it is generally a development regulation appropriate for commercial uses, and not the proposed residential use. The size of the interior courtyard for Building 3 was designed to provide the largest assembly space in the building and such large planters would and take up space

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necessary for proposed senior activities such as exercise classes, arts and crafts, concerts and mixers. The reduced landscape area allows accommodation of a scale more appropriate to this narrower courtyard and the new trees specified were selected for their ability to grow beyond the minimum height and spread of 15 feet (without compromising the root zone) when planted in a 22-square-foot planter. While the parking is reduced for the senior facility in Building 3, the spaces are provided in Building 1 via a shared parking agreement. Furthermore, the entire development provides a total of 470 parking spaces, which exceeds the total requirement of 410 spaces. Due to the density, use and expected frequency, staff supports the deviation to reduce the number of off-street loading spaces from two spaces to one space. Based on the strict application of the CU-2-4 Zone, these deviations are necessary in order to accommodate the anticipated mixed-use development use at this location.

**NEIGHBORHOOD USE PERMIT FINDINGS – SDMC SECTION 126.0205:**

**A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed medical clinic which necessitates the Neighborhood Use Permit complements the mixed-use nature of the project and provides much needed medical services for the project area population and implements the MCCP and CUPD goals of providing a full complement of goods and services to meet the *economic development needs of the community*.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

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**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE APPLICABLE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

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**CONDITIONAL USE PERMIT FINDINGS – SDMC SECTION 126.0305:****A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

The project site lies within the Mid-City Communities Plan and the City Heights Redevelopment Plan area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed senior housing which necessitates the Conditional Use Permit complements the mixed-use nature of the project and implements the MCCP recommendation for the provision of housing needs for seniors in the community. The senior residential component of the project provides 150 needed housing units affordable to very low-income seniors and one, on-site property manager's unit.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water

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resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY TO THE MAXIMUM EXTENT FEASIBLE WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The permit prepared for this development includes a variety of conditions of approval relevant to achieving project compliance with the regulations of the Land Development Code in effect for this site. The proposed site improvements are consistent with the general purpose and intent of the Mid-City Communities Plan, the City Heights Redevelopment Plan, and the CU-2-4 Zone of the Central Urbanized Planned District, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes.

**D. THE PROPOSED USE IS APPROPRIATE AT THE PROPOSED LOCATION.**

The proposed mixed-use project, including the senior residential development, is appropriate at this location. According to the Mid-City Communities Plan, the 2.78-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 209 residential dwelling units, absent any density bonus for projects providing affordable housing units. With the proposed 35% affordable housing density bonus (for providing more than 30% low-income units, per the City's Inclusionary Housing Ordinance and Density Bonus Program), 261 dwelling units could be built on the project site. The project proposes to build a total of 243 units (92 units in Building 1 and 151 units in Building 3, which have already been constructed per the original permit). The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit, which have already been constructed per the original permit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.

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**SITE DEVELOPMENT PERMIT FINDINGS – SDMC SECTION 126.0504.A:****A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The project implements the MCCP recommendations for the provision of housing needs for seniors in the community and the provision of market-rate housing. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one on-site property manager's unit, as well as 78 market-rate residential units.

The MCCP envisions City Heights as a pedestrian-friendly community with urban plazas at key crossroads, including the intersections of 43<sup>rd</sup> Street and Fairmount Avenue with University Avenue. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The MCCP envisions City Heights as a pedestrian-friendly community of urban plazas. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The project is located within a facility deficient neighborhood. The recent adoption of the San Diego General Plan Update and its Recreation Element provided updated direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. The project provides a 5,432-square-foot recreational area that will be open to the public. Additionally, the

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senior residence will also provide a central courtyard area and a 10,000-square-foot activity area. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School. Finally, the proposed multi-family residential use (Building 1) contains approximately 1,380 square feet of interior passive and recreation area.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE APPLICABLE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the



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project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

**D. THE PROPOSED DEVELOPMENT WILL MATERIALLY ASSIST IN ACCOMPLISHING THE GOAL OF PROVIDING AFFORDABLE HOUSING OPPORTUNITIES IN ECONOMICALLY BALANCED COMMUNITIES THROUGHOUT THE CITY.**

The City Heights Square project implements the goal of providing affordable housing opportunities for seniors in the community. The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside more than 30% of the proposed units (150 senior units, 14 affordable units, 78 market-rate units, and 1 manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of the Area Median Income in perpetuity, and other low-income tenants for 55 years.

**E. THE DEVELOPMENT WILL NOT BE INCONSISTENT WITH THE PURPOSE OF THE UNDERLYING ZONE.**

The proposed mixed-use project, including the senior residential development, is appropriate at this location. According to the Mid-City Communities Plan, the 2.78-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 209 residential dwelling units, absent any density bonus for projects providing affordable housing units. With the proposed 35% affordable housing density bonus (for providing more than 30% low-income units, per the City's Inclusionary Housing Ordinance and Density Bonus Program), 261 dwelling units could be built on the project site. The project proposes to build a total of 243 units (92 units in Building 1 and 151 units in Building 3, which have already been constructed per the original permit). The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit, which have already been constructed per the original permit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.

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**F. THE DEVIATIONS ARE NECESSARY TO MAKE IT ECONOMICALLY FEASIBLE FOR THE APPLICANT TO UTILIZE A DENSITY BONUS AUTHORIZED FOR THE DEVELOPMENT PURSUANT TO SECTION 143.0730.**

The increased residential density at this site is based on the critical need for affordable housing to very low-income seniors in San Diego and the appropriateness and cost efficiencies of developing such housing at the density proposed.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council, Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775 are hereby GRANTED by the City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 514696, 518933, 518932 and 519775, copies of which are attached hereto and made a part hereof.

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MICHELLE SOKOLOWSKI  
Development Project Manager  
Development Services

Adopted on: \_\_\_\_\_

Job Order No. 43-0074

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The following analysis addresses the various land use issues identified by staff and the Planning Commission at the October 18, 2007 General/Community Plan Amendment initiation hearing:

**1. Compatibility between the proposed General/Community Plan Amendment and the City's General Plan and Strategic Framework Element and Transit-Oriented Development Design Guidelines**

The proposed plan amendment implements the goals and objectives contained in the General Plan for encouraging redevelopment, infill, and new growth within compact, mixed-use, and walkable villages that are connected to a regional transit system; and for affordable housing opportunities for low-income renters.

The overall project proposed for the 2.78-acre site would create a net increase of 238 residential units within the City Heights neighborhood of the Mid-City community. The proposed project would locate these housing units along University Avenue, a 3-lane major roadway and east-west commercial-transit corridor, and within a developing mixed-used node centered on the intersections of University Avenue with 43rd Street and Fairmount Avenue. Additionally, the proposed project would be located within walking distance of existing neighborhood commercial uses, transit services, public facilities, and the City Heights Urban Village.

According to the Housing Element of the Mid-City Communities Plan, in view of the abundance of existing low- and moderate-income housing in the community, new construction of market-rate housing is encouraged in Mid-City's lower income areas in order to upgrade the overall housing stock in those areas. The Housing Element also encourages quality senior citizen housing projects to be developed in Mid-City. The proposed General/Community Plan Amendment presents an opportunity for urban infill development that would assist in providing additional market-rate housing units in the City Heights community, as well as a number of affordable units. Additionally, one hundred fifty senior housing units and one manager's unit have already been developed as part of an earlier phase of the overall project.

The Transit-Oriented Development (TOD) Design Guidelines suggest that transit-oriented development projects should be within a 2,000-foot walking radius of a transit stop and commercial area. Transit stops are located directly along the proposed project's street frontage along University and Fairmount Avenues. These transit stops are served by local and express bus routes, which connect to additional bus routes at the City Heights Transit Plaza and to the trolley at Grantville Station. The proposed project would be located along an existing commercial corridor, across the street from an existing retail center and an office building, and near other existing commercial uses along University Avenue.

According to the TOD Design Guidelines, the minimum density for urban TOD development is 18 dwelling units per acre, with a typical average residential density of 25 dwelling units per acre. Based on the proposed land use amendment associated with the project site and

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requested mixed-use density and affordable housing bonuses, the project would have an average density of 89 dwelling units per acre, which would meet and exceed the typical average density associated with urban TODs.

**2. The appropriate mix of uses for City Heights Square, including the need for commercial office uses to serve the adjacent residential uses.**

The proposed project site is located along University Avenue, which is an existing commercial and transit corridor. The proposed project is also located in an "urban node" identified by the Mid-City Communities Plan, centered on the intersection of University and Fairmount Avenues, designated for higher-density mixed-use development. Additionally, the project site is near the community plan-designated "Mid-City Center" urban node at University Avenue and Interstate 15, which is envisioned to develop as a major urban center, including significant retail, office, and residential development to take advantage of excellent regional vehicular access and transit. This overall project proposes multi-family residential units, including market-rate and affordable units, with some office uses and ground-level retail along University Avenue, as well as low-income senior housing (already developed in an earlier phase) and medical and non-profit office space north of University Avenue.

An initial proposal for this project included a greater amount of office space and fewer multi-family residential units in the proposed building fronting University Avenue than what is currently proposed. According to the applicant, more than a year of efforts to lease the proposed office space in this building failed to find adequate interested lessees, leading the applicant to conclude that demand does not exist in the community for the previously proposed amount of office space. Nevertheless, the change in the mix of uses for the proposed project is anticipated to adequately serve the needs of the neighborhood, as the medical and non-profit office building and office space in the University Avenue building are still components of the project. Additionally, the Mid-City Communities Plan identifies the need for additional market-rate units in the community. The current proposal adds 78 market-rate units, as well as 14 affordable units, which were not a component of the previous proposal.

**3. Ensure that ground-level retail uses are provided in areas designated as Commercial and Mixed-Use.**

Ground-level retail uses (20,500 square feet) are provided along University Avenue as part of this proposed project. These retail uses will have streetfront access through recessed entrances, and parking would be provided at the rear of the building and in proposed underground parking garage. The proposed retail space would be adequate to accommodate a large chain retailer as well as smaller retail such as franchise businesses, neighborhood retailers or food establishments.

**4. The availability of recreational facilities, public facilities and/or services, in particular parks and public schools.**

Parks

By current General Plan standards the Mid-City area is deficient in park acreage, with the most conspicuous needs in the older neighborhoods, generally west of 54<sup>th</sup> Street. These standards require a minimum of 2.8 acres of population-based neighborhood park facilities for every 1,000 persons. According to 2007 San Diego Association of Governments (SANDAG) population data, the City Heights community has a total of population of 79,217 residents. Based on its current population, the City Heights community should have at least 221.81 acres of park space. The 2007 existing park acreage in City Heights was 135.11 gross acres with 84.49 useable acres.

The City Heights community is largely urbanized and developed, and, therefore, opportunities for acquiring additional park land within the community are limited. Most of the undeveloped land in the community consists of neighborhood canyons and creek areas designated for open space. Unlike most areas in the community, the proposed project is located in an area of the City Heights community that has a concentration of recreational and public facilities. Nearby facilities include:

- Teralta Park
- City Heights Recreation Center, Pool, and Tennis Courts
- Mid-City Gymnasium
- Rosa Parks Elementary School Joint-Use Fields

In order to address the project's park requirements, the applicant will pay all required park fees associated with this development. The project would also provide a 5,432 square foot mini-park designed for passive recreation and recreational amenities in the proposed retail/residential targeting small children, older youth, and adults who live in the building, including:

- 10,000 square foot active play area for younger children
- 600 square foot computer room
- 2,215 square foot recreation/activities room with a 1,100 square foot covered patio
- 3,000 square foot adult-only roof-level passive recreation and relaxation space

Additionally, the applicant will donate to the City a 10,000 square foot parcel located one block from the project site for development and use as an additional neighborhood mini-park.

Public Schools

According to student generation rates provided by the San Diego Unified School District (SDUSD) Instructional Facilities Planning Department for comparable existing residential developments in the City Heights community, the proposed 92-unit retail/residential building

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would generate approximately 14 to 63 elementary school students, 3 to 37 middle school students, and 3 to 37 high school students, totaling 20 to 137 students.

The project area is served by Central Elementary School, Wilson Middle School, and Hoover High School. According to 2007-2008 enrollment levels and 2008-2009 school capacities for these schools, Central Elementary School will have capacity for 20 additional students, Wilson Middle School will have capacity for 1,013 additional students, and Hoover High School will have capacity for 29 additional students. Therefore, the City Heights Square development has the potential to impact Central Elementary and Hoover High, both of which are currently close to capacity. However, school enrollment levels change from year to year and could be different when the project is fully built and occupied.

According to the School District, specific strategies that have been used when schools grow over their capacity include adding portable classroom buildings (which may be difficult due to constrained site conditions at Central and Hoover), changing attendance boundaries to reduce the number of students at a school, or initiating busing to schools which have excess capacity. The capacity of other nearby schools was taken into account in the SDUSD analysis. SDUSD has stated that measures to respond to students exceeding capacity would be decided by the district if enrollment did exceed capacity and after the actual number of excess students had been determined, and that SB 50 school fees paid by the developer would aid in realizing whichever response strategy is determined to be optimal.

#### Police

Police service to the City Heights Square project would be provided by the Mid-City Division, located at 4310 Landis Street, approximately 0.3 miles south of the project site. Mid-City Division is currently comprised of 173 sworn personnel and 16 non-sworn personnel. The 2008 average response times for priority E (emergency) and priority one calls to the vicinity of the project site were 4.5 minutes and 9.3 minutes, respectively. The citywide average response times are 6.7 minutes and 13.1 minutes for priority E calls and priority one calls, respectively. The proposed project will likely generate additional calls to the vicinity. According to San Diego Police Department staff, an increase in the number of patrol officers assigned to the Mid-City Division, over the current patrol strength of 150 officers, will likely reduce response times to calls for services.

The proposed project, consisting of 79 market-rate dwelling units, 13 affordable units, 150 senior units and one manager's unit, will result in approximately 627 residents (based on the maximum of 2 residents per senior unit per the Disposition and Development Agreement and an average of 3.53 persons per Mid-City household per SANDAG's 2005 demographic forecast). Based on the citywide goal to maintain a ratio of 1.67 police officers of per 1,000 residents, the proposed project would result in the need for one additional police officer.

#### Library

According to General Plan Standards, there should be one branch library for every 18,000 to 20,000 residents. Based on City Heights' population of 79,217 residents, the community

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should have four branch libraries. The City Heights/Weingart Library, located 0.2 miles southeast of the project site, is currently the only library servicing the City Heights community. The City Heights branch library hosts educational programming and contains meeting rooms and a theatre venue. The next nearest branch library, the Kensington-Normal Heights branch, is located approximately 1.1 miles north of the project. According to the City Heights/Weingart branch manager, service levels would not be negatively impacted by the proposed project.

#### Fire & Rescue

The San Diego Fire-Rescue Department uses National Fire Protection Association Standard 1710, Organization and Deployment of Fire Suppression Operations, for the initial response of fire suppression resources, which is a four-person engine company provided within five minutes and the provision of an effective fire force of 15 firefighters within nine minutes. The proposed project meets this standard.

According to Fire-Rescue staff, the response time for the closest engine company, Engine 17 from Fire Station 17 at Orange and Chamoune Avenues, is 2.1 minutes. The average response time for Engine 17 in its district is 4.22 minutes. Engine 17 is staffed by four firefighters, one of which is also a paramedic. The proposed project site is also served by Engine 14 from Fire Station 14 at Lincoln Avenue and 32<sup>nd</sup> Street, with a response time to the project site of 3.0 minutes.

This project would add additional responses to an area that already has engine companies over the national standard for workload capacity in the number of yearly incidents. The national standard is 2,500 incidents; in FY 08, Engine 17 responded to 4,158 incidents and Engine 14 responded to 2,939. Due to the additional responses that this project will generate, Development Impact Fees paid would contribute to the cost of the planned rebuilding of Fire Station 17 to provide facility space to add an additional engine or truck, which is identified in the Mid-City Public Facilities Financing Plan (MCPFFP). Adding an additional response unit in this area would help to balance the existing workload and absorb the additional responses anticipated due to increasing density. There are no additional fire stations proposed within the City Heights community according to the MCPFFP.

#### Sewer/Water

According to the sewer study prepared by the applicant's consultant, which was updated for the current project configuration, current sewer facilities have available capacity to service the proposed project. No system upgrades are anticipated to be needed as a result of the project.

#### **5. The ability of the project to provide additional recreational amenities as part of the development proposal.**

According to the General Plan guidelines, the anticipated 627 residents of the proposed project would generate a need for 1.76 acres of population-based park land, 0.035% of a

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community recreation center and 0.013% of a community swimming pool complex. In order to address these needs, the applicant will pay all required park fees associated with this development. The project would also provide a 5,432 square foot mini-park designed for passive recreation and recreational amenities in the proposed retail/residential targeting small children, older youth, and adults who live in the building, including:

- 10,000 square foot active play area for younger children
- 600 square foot computer room
- 2,215 square foot recreation/activities room with a 1,100 square foot covered patio
- 3,000 square foot adult-only roof-level passive recreation and relaxation space

Additionally, the applicant will donate to the City a 10,000 square foot parcel located one block from the project site for development and use as an additional neighborhood mini-park.

**6. Impacts on the community transportation system to determine if any transportation improvements would be necessary.**

At the time that the applicant's traffic impact analysis was prepared, the proposed project consisted of 151 dwelling units, 18,152 square feet of retail, 5,000 square feet of restaurants, 69,780 square feet of commercial offices, and 25,997 square feet of medical offices, and was expected to generate approximately 604, 653, 994, 1,286, and 520 average daily trips, respectively (based on the rates of 4 trips per dwelling unit, 36 trips per 1000 square feet of retail, 104 and 420 trips per square foot for high-turnover and fast-food restaurants, a variable rate based on square footage for commercial offices, and 20 trips per 1,000 square feet of medical offices). The total average daily trips for the project configuration at the time of the traffic impact analysis was 4,057, with 299 AM peak hour trips and 404 PM peak hour trips. The existing uses on the project site generate 1,194 total average daily trips; therefore the net cumulative trips generated by the previous project configuration are calculated to be 2,863 trips.

The Transportation Development Section in the Development Services Department has determined that the current configuration of the project (243 dwelling units, 20,519 square feet of restaurant and retail space, 3,030 square feet of commercial office space, 34,660 square feet of medical and professional offices) would result in a slightly lower number of trips to the project site than anticipated by the traffic impact analysis. Based on this result, *no traffic improvements* are required as part of this project except for the addition of a northbound left-turn lane on Fairmount Avenue to service the project's driveway and a fair-share contribution toward the construction of additional turn lanes at the intersection of University and Euclid Avenues, which will be added as conditions of the project.

**7. The availability of transit to serve the development.**

Transit service is conveniently available from stops along the proposed project's University Avenue and Fairmount Avenue frontages, including service via Routes 7 and 10 along University to downtown San Diego and the La Mesa trolley station and service via Route 13 along Fairmount Avenue to the Grantville trolley station. Additionally, service via Routes



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210, 960, 965 and 966 is available at the City Heights Transit Plaza, located less than one-half mile west of the project site at University Avenue and I-15. Transit service is also available at El Cajon Boulevard, approximately one-half mile north of the project location, with service via Route 15 to SDSU and downtown San Diego.

**8. Compatibility of the density and intensity permitted under the proposed designation with existing and planned surrounding uses.**

The Mid-City Communities Plan identifies the area centered on the intersection of University and Fairmount Avenues as an "urban node" designated for higher-density mixed-use development. An additional "Mid-City Center" urban node centered on the intersection of University Avenue and I-15 is identified with the goal of establishing a major urban center at this regional crossroads, including significant retail, office, and residential development to take advantage of excellent regional vehicular access and transit. The community plan also recommends that pedestrian-oriented mixed-use development with moderate-density residential be permitted along transportation corridors between urban nodes.

The proposed Community Plan Amendment to change the project site's land use designation from Residential (21-25 dwelling units per acre) and Commercial and Mixed-Use (29 dwelling units per acre and up to 43 dwelling units per acre for mixed-use projects) to Commercial and Mixed-Use (73 dwelling units per acre) would allow the development of these urban nodes by permitting higher residential densities that would support future intensified commercial uses along University Avenue. The proposed Community Plan Amendment would also allow the development of these urban nodes by focusing additional residential density within walking distance of the existing City Heights Urban Village office and commercial uses and public facilities. Additionally, by allowing higher residential densities to develop at the designated nodes, the proposed community plan amendment would encourage future pedestrian- and transit-oriented commercial and mixed-use development between nodes from I-15 to Euclid Avenue.

The proposed rezone would also allow the implementation of the designated urban node at University and Fairmount. The current zoning at the project site is CU-2-3 (Commercial with medium-high density residential) and CT-2-3 (Commercial Transition). The proposed rezone to CU-2-4 (Commercial with high-density residential) would allow an increase in residential density from one dwelling unit per 1,000 square feet of lot area to one unit per 600 square feet. The additional residential density allowed by the CU-2-4 zone and proposed by this project would serve to increase the mix of housing types in proximity to the City Heights Urban Village and to transit along University and Fairmount Avenues.

Existing land uses along University Avenue are primarily pedestrian-oriented commercial uses, including recently developed office space. Existing uses along neighborhood streets running north and south perpendicular to University are a mix of transition commercial and multi-family and single-family residential at densities of 6 to 25 dwelling units per acre. In keeping with the existing development along University Avenue, the proposed project incorporates street-level retail and locates parking areas at the interior of the site. The proposed land use amendment and residential density would also be the same as that of the

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Mid-City Communities Plan-designated urban node at the intersection of El Cajon Boulevard and Fairmount Avenue, located to the north of the project site.

**9. The ability of the project to provide housing which meets the needs of the community, including the opportunity for on-site affordable housing.**

The Residential Element of the Mid-City Communities Plan recommends that, in view of the abundance of low and moderate-income housing in Mid-City, new construction of market-rate housing should be developed in Mid-City's lower income areas in order to upgrade the overall value of the housing stock. The proposed project would implement this recommendation by providing 78 market-rate housing units. Also, 150 low-income senior units and one manager's unit have already been constructed at the northern end of the project site during an earlier phase of development. Additionally, as part of the current phase of development, the project would include 14 affordable housing units. This overall proposed project would provide an urban infill opportunity to increase the supply of market-rate housing units, affordable units, and low-income senior housing within the City Heights Redevelopment Area, improving the balance of housing types within the City Heights community.

**10. Provision of pedestrian amenities and streetscape improvements associated with new residential development.**

The proposed project would implement the community plan's recommendation to improve the pedestrian experience through the creation of wider sidewalks by setting back the building frontage on University Avenue an additional five feet, resulting in a total sidewalk width of 15 feet. This additional setback also allows for the creation of plazas at the corners of University Avenue with 43<sup>rd</sup> Street and Fairmount Avenue. Thirty-six inch box street trees would be planted adjacent to the plazas and along the sidewalks, in addition to vertical accent plantings on the building columns along University Avenue to define potential seating areas and pedestrian circulation.

The proposed project provides street-level retail along University Avenue and along adjacent sections of 43<sup>rd</sup> Street and Fairmount Avenue. Additional design elements incorporated to enhance the pedestrian experience include corner towers on University reminiscent of the historic buildings of the neighborhood, entries recessed into the street wall, awnings to animate the street elevation, and articulation of all building elevations to break the façades into smaller elements more in keeping with a pedestrian scale.

The proposed project would include new curb, gutter, sidewalk, and pedestrian-scale lights along University Avenue, 43<sup>rd</sup> Street, and Fairmount Avenue, and would add two auto-oriented street lights along Polk Avenue. Parking has been placed at the interior of the project site so that streetfront access to all buildings is maintained; and the proposed mini-park has been placed at the sidewalk along 43<sup>rd</sup> Street so that community access is maintained. Entrances to the proposed housing units would be located on the opposite side of the building from the garage entrances, in order to allow a better separation between

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pedestrian and vehicle routes and to allow direct access to the residential lobbies from the sidewalk.

11. **Provide an economic analysis that addresses the increase/decrease of potential jobs based on the change from a retail/commercial use to a retail/residential use. Include the feasibility of live-work spaces as an alternative to standard multi-family residential.**

Both the former retail/office and current retail/residential configurations of the building fronting University Avenue would provide additional jobs in the City Heights community. Based on the applicant's discussions with potential retail tenants, most of the retail jobs that would be provided would be entirely new jobs created by start-up businesses and by existing businesses expanding their operations to an additional business location in the proposed project. It is currently the applicant's intent to lease the proposed retail space in the project to neighborhood businesses and major chains in equal proportion. The current retail/residential configuration is anticipated to create 40 to 60 new jobs based on a rate of 2 to 3 employees per 1,000 square feet of retail space, based on job generation rates by retail square footage published by the U.S. EPA.

Based on the applicant's discussions with potential office tenants, half or more of the office jobs that would be located in the City Heights Square development would be existing jobs in businesses, non-profit organizations and educational institutions already located in the Mid-City area that would move their operations to the proposed project. Therefore, it is unlikely that there would be significant gain in terms of new employment in the area from office space in City Heights Square, other than possible staff expansion by some office tenants.

In collaboration with the San Diego Economic Development Corporation, significant efforts were made by the applicant to contact (a) specific business segments likely to be in an expansion mode, (b) all major non-profit organizations, and (c) firms with leases expiring in the near future which might be in the market for new office space. After more than two years of leasing effort, the applicant was unsuccessful in attracting either new or existing business or non-profit entities to the City Heights Square office space, whether with existing or new hires. As a component of the proposed project, 3,000 square feet of 2<sup>nd</sup> floor office space would be retained. This amount of office space would provide approximately 12 to 15 additional jobs.

The applicant's real estate consultant has analyzed the feasibility of incorporating live/work lofts in the proposed project as an alternative means to create business and employment opportunities. The consultant's survey of rental property managers (Attachment 9) concluded that the majority of residents city-wide that work from home are telecommuters, in addition to smaller numbers of professional service providers that see clients in their dwelling units. Telecommuters and other small business owners who can utilize the proposed project's "as built" units for their business location would be welcome in the proposed development, and the applicant would make a strong marketing effort to attract such business users and jobs to the community. However, due to security concerns and the access hurdles that the residential entrance's security would present to customers, the consultant has determined that business

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owners who require more than occasional visits from clients would be difficult to accommodate.

The applicant's consultant has also analyzed the possibility of providing split-level live/work lofts as part of the proposed development. The applicant's consultant concluded that providing such lofts would diminish the range of tenants that the planned retail component could accommodate by restricting a certain amount of retail space to live/work use with uncertain demand. An alternative arrangement suggested by the consultant would be for business owners to rent office or retail space in the development in addition to renting a residential unit.

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E-DRESS: jlabreche@lssandiego.com

February 8, 2008

Mr. Joe LaBreche  
**LaBreche & Stock LLC**  
7979 Ivanhoe Avenue  
Suite 550  
La Jolla CA 92037

**RE: LIVE/WORK APARTMENT FEASIBILITY STUDY, PROPOSED CITY HEIGHTS  
SQUARE PROJECT, UNIVERSITY AND FAIRMOUNT, CITY HEIGHTS**

Dear Mr. LaBreche:

As requested, MarketPointe Realty Advisors has undertaken and now completed a study to provide Price Charities with an analysis of the feasibility of work/live lofts within the proposed five-story 92-unit City Heights Square project at Fairmount and University in City Heights.

The project will be designed in the California Mediterranean tradition. The project architect is David Lorimer Architects and Associates.

The project will have two subterranean parking levels with additional parking at ground level for the retail facilities. Subterranean spaces will total more than 200. Initial plans call for 20,000 square feet of retail space at ground level, although that plan is subject to change. There has been some discussion about developing the ground floor retail as work/live space with residential accessible from the retail space. Four stories of residential housing will lie above the ground floor podium.

The unit mix is family-oriented with almost three quarters of the units three bedroom, two bath models averaging 1,225 square feet. There will also be 20 two-bedroom units averaging 1,150 square feet and six one-bedroom units averaging 900 square feet. The total average unit size will be 1,188 square feet.

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 REALTY ADVISORS

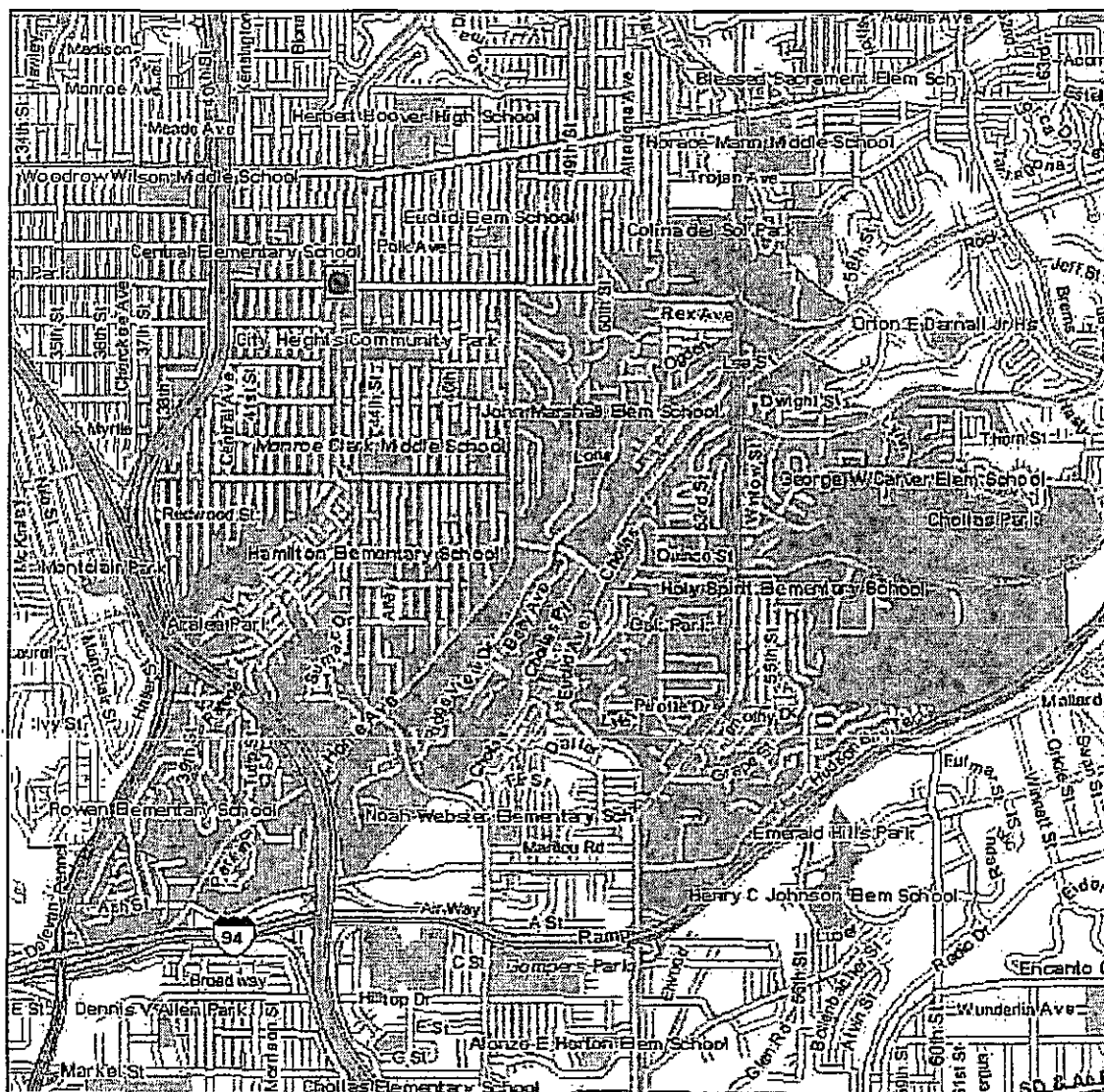
UNIT MIX PROPOSED APARTMENT PROJECT FAIRMOUNT AND UNIVERSITY CITY HEIGHTS				
UNIT TYPES	UNITS	%	SQ. FT.	TOTAL SQ. FT.
1 BR, 1 BA	6	6.5%	900	5,400
2 BR, 2 BA	20	21.7%	1,150	23,000
3 BR, 2 BA	66	71.7%	1,225	80,850
<b>TOTAL</b>	<b>92</b>	<b>100.0%</b>	<b>1,188</b>	<b>109,250</b>
SOURCE: DAVID LORIMER ARCHITECTS MARKETPOINTE REALTY ADVISORS 2.08				

The focus of the study is to determine the feasibility of incorporating work/live lofts within the upper stories of the project. As part of the feasibility study, we have looked at the potential tenant mix, the depth of the work/live market, and the security/safety issues that would be an integral part of the project operation. The access to the garage for those who would have clients visiting the work/live lofts for business purposes has also be considered in the study.

The City Heights neighborhood is in the midst of a major transformation. That transformation has involved massive investments in infrastructure as well as additions of residential housing and office structures. Aside from downtown San Diego, City Heights represents the most extensive revitalization of an urban neighborhood in the County.

The map on the following page identifies the subject property. The map extends beyond the boundaries of the City Heights neighborhood to include most of zip code 92105 but shows the relationship between City Heights and the extensive freeway system as well as the substantial number of schools in the immediate area.

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The City Heights area is within zip code 92105, an area that has more than 70,000 population and represents approximately 5.0% of the City's population.

Its ethnicity is approximately half Hispanic, 17% Asian and 15% black. 92105 tends to be far younger in age composition and has larger family units than in the rest of the City. Educationally, the City has a 35% college graduate component compared to 7.3% in zip code 92105.

The housing stock in 92105 is composed of 38.9% detached homes compared to 46.7% Citywide. Perhaps more important, in 92105, only 31% of the households are owner-occupied compared to half of the households in the City as a whole.

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DEMOGRAPHIC OVERVIEW 92105 ZIP CODE CITY OF SAN DIEGO		
DATA ITEM	92105	CITYWIDE
<b>POPULATION CHANGE</b>		
2007 POPULATION	70,893	1,295,113
1990 POP	62,086	1,111,048
1990-2007 % GROWTH	14.2%	16.6%
<b>ETHNICITY (MAJOR GROUPS)</b>		
% BLACK	15.3%	7.9%
% ASIAN	17.3%	13.7%
% HISPANIC	48.7%	25.4%
<b>HOUSEHOLD COMPOSITION</b>		
MEDIAN AGE	25.9	32.7
% ≥ 4 YR DEG	7.3%	35.0%
AVG HH SIZE	3.4	2.6
% BLUE COLLAR	32.0%	15.7%
% SERVICE & FARM	29.4%	16.1%
<b>HOUSING TYPES AND TENURE</b>		
% OWNER OCC	31.0%	49.5%
% RENTER OCC	69.0%	50.5%
% DETACHED	38.9%	46.7%
% ATTACHED / OTHER	61.1%	53.3%
SOURCE: CLARITAS MARKETPOINTE REALTY ADVISORS 2.08		

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This study is segmented into four sections

- Section 1: The San Diego Apartment Market
- Section 2: The City Heights Apartment Market
- Section 3: Work/Live Apartments
- Section 4: Findings and Recommendations



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**Section 1: The San Diego Apartment Market**

Twice a year, MarketPointe Realty Advisors surveys some 800 rental complexes throughout San Diego County to assess the strength of the market and changes in rents. The data in this report is from the Fall 2007 study, as our Spring 2008 study will not be released until March 2008.

Our database does not include subsidized apartments, nor age-restricted apartments or projects with fewer than 25 units.

The countywide vacancy rate of market-rate apartments of 2.58 percent declined nearly two percent from six months previous when the vacancy rate surged to over 4.5 percent. While this is a significant six-month decline, compared to a year ago when the vacancy rate was 1.84 percent, today's 2.58 percent vacancy rate has increased by 0.74 percent.

We should note that the vacancy rates in our report, may be somewhat lower than shown in other reports prepared in the County. The variances typically relate to definitions of vacancy.

With considerably fewer new options available in the rental marketplace, the new units introduced last audit (spring 2007) moved closer to full occupancy. The five new projects introduced to the region last audit increased their lease rates from 49 percent last audit to nearly 90 percent leased this audit.

The five new projects that opened for business as of the last survey were virtually all class "A" projects with rent rates in the \$2.00-\$2.50 per square foot range.

Also a factor in the vacancy rate decline is the current status of the for-sale sector that has been negatively affected by increased foreclosures and the tightening of lending requirements. This has resulted in less demand for for-sale housing and increased demand for rental housing.

The lone new project this audit, **The Reserve at 4S Ranch**, brings 202 newly constructed units to the San Diego rental market of which 155 have been leased. This new project brings the number of active projects surveyed in *Rental Trends* to 791.

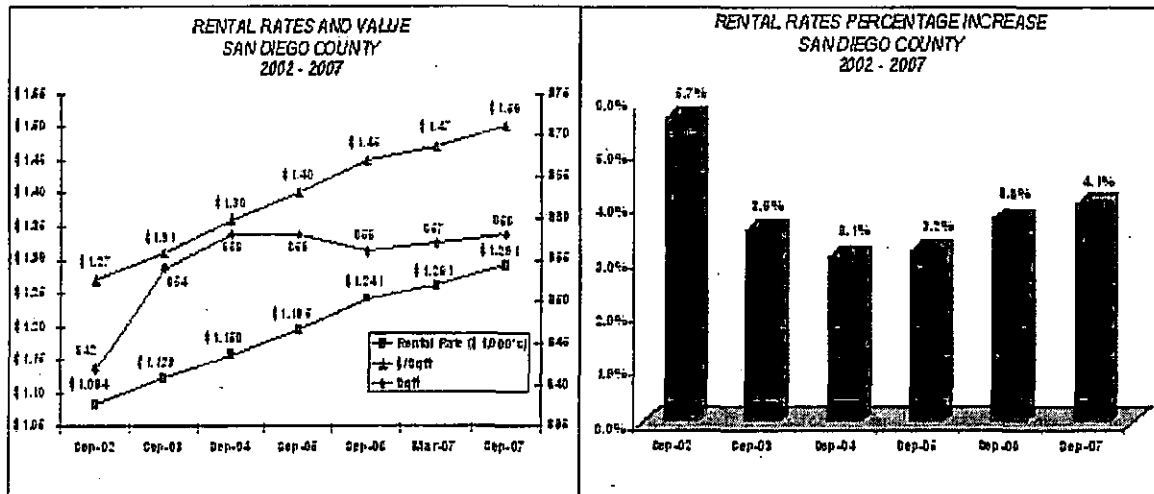
We should note that prior to the condominium conversion boom in 2003-2006, our audit included almost 900 projects.

RENTAL TRENDS SUMMARY SAN DIEGO COUNTY FALL 2007			
Category	San Diego County	North County	South County
Total Number of Complexes	791	355	436
Total Number of Units Surveyed	113,761	55,170	58,591
Total Number of Units Leased	110,829	53,613	57,216
Total Number of Units Vacant	2,932	1,557	1,375
Overall Vacancy Factor	2.58%	2.82%	2.35%
Average Monthly Rental Rate	\$1,291	\$1,368	\$1,219
Average Square Footage	858	887	831
Average \$/Square Foot	\$1.50	\$1.54	\$1.47
Source: MarketPointe Realty Advisors			

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MarketPointe  
REALTY ADVISORS**Rental Rate Trends**

The weighted average rental rate countywide increased \$30 per month since the previous audit of **Rental Trends**. This increase in the rental rate average equates to a 2.43 percent increase. From an annual perspective, the current countywide rental rate average is up 4.10 percent from an average of \$1,241 in September of 2006.



Newer units, those opened since 2003, command a more than 50 percent monthly premium over units that opened prior to 1998, or \$600 per month. Along with higher average rents, newer units offer nearly 20 percent more average square footage, or an additional 164 square feet than the older projects.

In terms of per square foot rent, newer projects command better than 25 percent more than older projects at an average of \$1.81 per square foot. Despite the fact that there is a premium for newer units, new units entering the marketplace continue to be quickly absorbed thus demonstrating the strong demand for new rental housing in the region.

RENTAL RATE COMPARISON NEW VS OLDER APARTMENT UNITS SAN DIEGO COUNTY FALL 2007									
Data	Opened Pre-1998	Opened 1998-2002	Opened In 2003	Opened In 2004	Opened In 2005	Opened In 2006	Opened In 2007	Opened 2003-2007	Overall
Avg Rent	\$1,197	\$1,730	\$1,918	\$1,721	\$1,966	\$1,765	\$1,872	\$1,797	\$1,291
Avg Sqft	830	998	1,086	979	1,097	915	981	994	858
Avg \$/Sqft	\$1.44	\$1.73	\$1.77	\$1.76	\$1.79	\$1.93	\$1.91	\$1.81	\$1.50
Number Units	94,449	13,433	1,318	2,486	358	1,482	235	5,879	113,761
Number Leased	92,185	13,186	1,236	2,342	336	1,364	180	5,458	110,829
Number Vacant	2,264	247	82	144	22	118	55	421	2,932
Vacancy Rate	2.40%	1.84%	6.22%	5.79%	6.15%	7.96%	23.40%	7.16%	2.58%
Number of Projects	729	41	3	7	2	7	2	21	790
Source: MarketPointe Realty Advisors									

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MarketPointe  
REAL ESTATE ADVISORS**Rental Rates by Sub-Market**

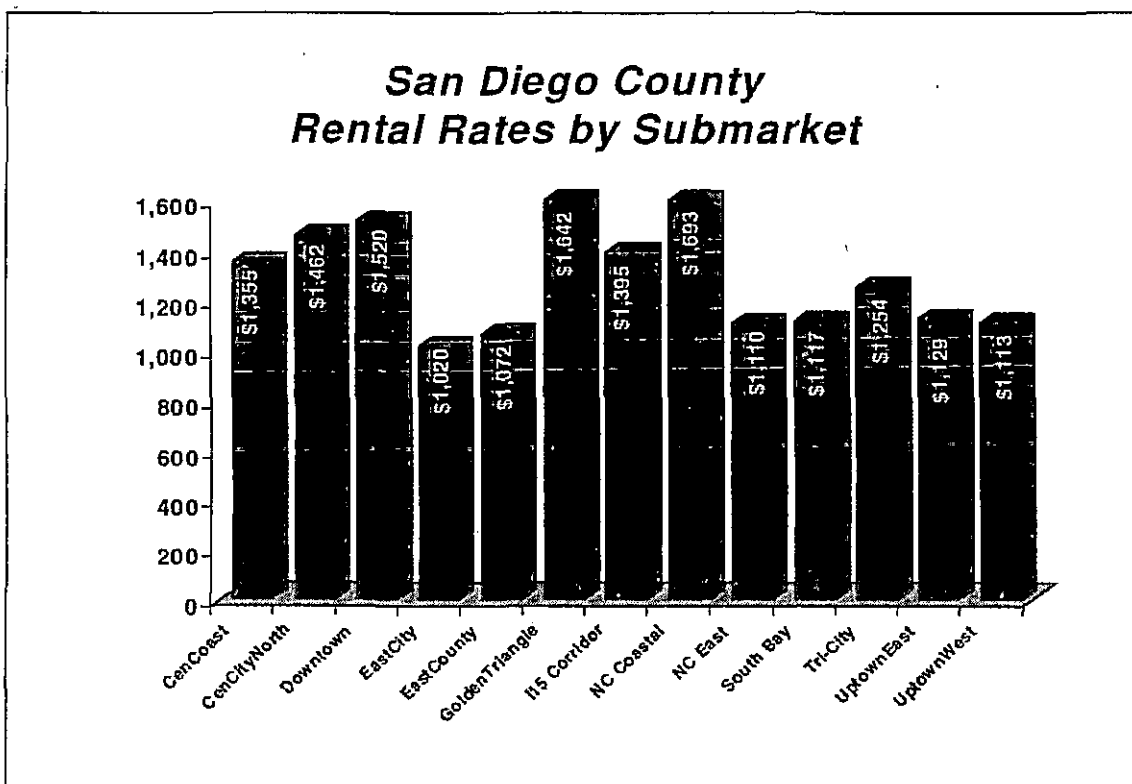
Of the 13 MarketPointe submarkets defined in San Diego County, six are commanding average rental rates higher than the countywide average of \$1,261 per month

The North County Coastal continues to be the most expensive submarket in San Diego County with a weighted average rent of \$1,693 per month for 972 square feet of living space (\$1.74 per square foot) reflecting a 31 percent premium over the countywide average of \$1,291 per month.

The highest value ratios, meanwhile, can be found in Downtown San Diego at \$1.99 per square foot, the Central City Coastal submarket at \$1.79 per square foot, and the Golden Triangle at \$1.77 per square foot.

**The most affordable submarket is East San Diego City, which recently surpassed the \$1,000 per month mark. The subject property is in the East San Diego City area.**

Other affordable submarkets are the East San Diego County submarket, the North County East submarket, the Uptown East and West submarkets, and the South Bay, all of which feature rental rates below \$1,200 per month.



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MarketPointe  
REAL ESTATE AND ADVISORS**Section 2: The City Heights Apartment Market**

For the purposes of the following statistical review, the City Heights Competitive Rental Area includes East San Diego (which includes City Heights), Golden Hill, Grantville, Hillcrest, Kensington, Mission Valley, Normal Heights, North Park and Tierrasanta. In these nine neighborhoods, we have surveyed a total of 11,850 apartment units. The vacancy rates average 1.84%. Mission Valley, by far, has the largest share of these units (5,133), followed by Tierrasanta (2,686) and East San Diego (1,936).

The table below specifically breaks down the rental data by monthly rent range. The average rent for all units surveyed is \$1,404 or \$1.65 per square foot; however this number is largely skewed by the weighting associated with Mission Valley. The quality of product available in Mission Valley and the reputation of the area, results in substantially higher rents than some of the more southern neighborhoods reviewed.

RENTAL DATA CITY HEIGHTS COMPETITIVE RENTAL AREA 3RD QUARTER 2007												
City	Data	\$600-\$699	\$700-\$799	\$800-\$899	\$900-\$999	\$1000-\$1099	\$1100-\$1199	\$1200-\$1299	\$1300-\$1399	\$1400-\$1499	\$1500-\$1599	\$1600+
EAST SAN DIEGO	Average Rent	\$767	\$843	\$957	\$1,062	\$1,123			\$1,364	\$1,470		
	Average Sqft	673	649	749	811	767			910	1,214		
	Average \$/Sqft	\$1.14	\$1.30	\$1.28	\$1.31	\$1.46			\$1.50	\$1.21		
	Units	191	328	540	269	370			155	89		
	Vacancy Rate	2.62%	1.52%	0.55%	0.00%	5.85%			0.00%	0.00%		
GOLDEN HILL	Average Rent	\$672	\$750	\$803	\$925	\$1,120	\$1,205	\$1,300	\$1,403	\$1,685	\$969	
	Average Sqft	456	499	573	665	613	937	1,010	867	1,080	668	
	Average \$/Sqft	\$1.47	\$1.50	\$1.40	\$1.39	\$1.83	\$1.29	\$1.29	\$1.62	\$1.56	\$1.45	
	Units	25	13	87	117	29	31	2	26	9	339	
	Vacancy Rate	4.00%	0.00%	3.45%	0.85%	3.45%	0.00%	0.00%	3.85%	0.00%	2.00%	
GRANTVILLE	Average Rent			\$927		\$1,150	\$1,200				\$998	
	Average Sqft			805		1,000	875				858	
	Average \$/Sqft			\$1.15		\$1.15	\$1.23				\$1.16	
	Units			194		44	35				273	
	Vacancy Rate			2.58%		2.27%	5.71%				2.93%	
HILLCREST	Average Rent	\$656	\$838	\$950	\$1,081	\$1,157	\$1,229	\$1,375	\$1,430	\$1,540	\$1,696	\$1,080
	Average Sqft	324	413	566	671	806	791	939	1,027	941	1,646	669
	Average \$/Sqft	\$2.03	\$2.03	\$1.68	\$1.61	\$1.44	\$1.55	\$1.46	\$1.39	\$1.64	\$1.03	\$1.61
	Units	120	74	163	180	49	184	58	32	59	5	904
	Vacancy Rate	1.67%	0.00%	0.00%	1.25%	2.04%	0.54%	0.00%	6.25%	3.99%	0.00%	1.11%
KENSINGTON	Average Rent			\$1,080		\$1,363			\$1,520	\$2,003	\$1,508	
	Average Sqft			641		973			975	1,456	1,074	
	Average \$/Sqft			\$1.68		\$1.40			\$1.56	\$1.38	\$1.40	
	Units			14		166			2	60	242	
	Vacancy Rate			0.00%		1.20%			0.00%	0.00%	0.83%	
MISSION VALLEY	Average Rent		\$800	\$982	\$1,044	\$1,175	\$1,272	\$1,360	\$1,451	\$1,549	\$1,652	\$1,612
	Average Sqft		500	460	704	612	779	679	731	862	1,051	996
	Average \$/Sqft		\$1.60	\$2.13	\$1.48	\$1.82	\$1.53	\$2.00	\$1.98	\$1.80	\$1.78	\$1.78
	Units		12	100	312	120	352	318	462	834	2,623	5,133
	Vacancy Rate		0.00%	0.00%	4.81%	0.00%	0.00%	1.57%	2.16%	1.44%	2.10%	1.89%
NORMAL HEIGHTS	Average Rent	\$775	\$855	\$945	\$1,055	\$1,145						\$891
	Average Sqft	380	720	588	967	788						746
	Average \$/Sqft	\$2.15	\$1.19	\$1.61	\$1.09	\$1.45						\$1.31
	Units	2	30	21	18	22						93
	Vacancy Rate	0.00%	10.00%	0.00%	0.00%	0.00%						3.23%
NORTH PARK	Average Rent	\$750	\$849	\$962	\$1,057	\$1,126	\$1,200	\$1,334				\$1,034
	Average Sqft	500	620	741	905	861	950	1,042				813
	Average \$/Sqft	\$1.50	\$1.37	\$1.30	\$1.17	\$1.31	\$1.26	\$1.28				\$1.27
	Units	6	41	82	64	41	4	26				244
	Vacancy Rate	16.67%	9.76%	1.61%	1.56%	7.32%	0.00%	0.00%				4.10%
TIERRASANTA	Average Rent					\$1,175	\$1,263	\$1,384	\$1,419	\$1,569	\$1,789	\$1,530
	Average Sqft					625	679	774	789	931	1,040	867
	Average \$/Sqft					\$1.88	\$1.86	\$1.79	\$1.80	\$1.68	\$1.72	\$1.77
	Units					96	399	312	723	152	1,004	2,686
	Vacancy Rate					0.00%	1.50%	1.28%	1.38%	1.32%	2.99%	1.71%
Total Average Rent		\$659	\$785	\$836	\$950	\$1,058	\$1,142	\$1,256	\$1,368	\$1,433	\$1,551	\$1,636
Total Average Sqft		346	654	606	697	752	741	754	813	802	877	1,056
Total Average \$/Sqft		\$1.90	\$1.17	\$1.38	\$1.36	\$1.41	\$1.54	\$1.67	\$1.68	\$1.79	\$1.77	\$1.74
Total Number of Units		145	212	572	1,187	837	771	1,005	1,037	1,326	1,047	3,701
Total Vacancy Rate		2.07%	2.83%	2.62%	0.84%	2.15%	3.63%	0.90%	1.86%	1.73%	1.53%	2.13%

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 REALTY ADVISORS

Both Mission Valley and Tierrasanta, the two neighborhoods north of Interstate 8, achieved the highest rent per square foot at \$1.78 and \$1.77, respectively. The lowest rent achieved was in Grantville (\$1.16) and North Park (\$1.27).

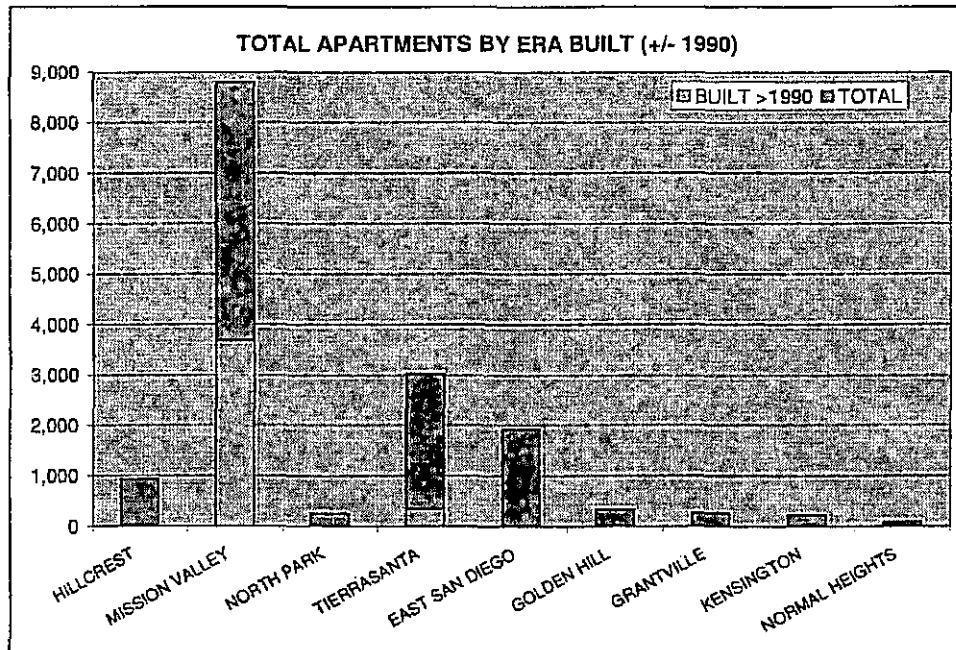
RENTAL DATA APARTMENTS BUILT >1990 CITY HEIGHTS COMPETITIVE RENTAL MARKET 3RD QUARTER 2007								
City	Data	\$0700-799	\$1000-1099	\$1200-1299	\$1300-1399	\$1400-1499	\$1500-1599	\$1600&+ Grand Total
HILLCREST	Average Rent			\$1,250			\$1,550	\$1,515
	Average Sqft			731			933	909
	Average \$/Sqft			\$1.71			\$1.66	\$1.67
	Number of Units			4			30	34
	Vacancy Rate			0.00%			6.67%	5.88%
MISSION VALLEY	Average Rent				\$1,365	\$1,451	\$1,562	\$1,869
	Average Sqft				685	731	766	1,060
	Average \$/Sqft				\$1.99	\$1.98	\$2.04	\$1.76
	Number of Units				254	462	542	2,415
	Vacancy Rate				1.97%	2.16%	0.74%	2.28%
NORTH PARK	Average Rent	\$750	\$1,000	\$1,200				\$968
	Average Sqft	500	750	950				718
	Average \$/Sqft	\$1.50	\$1.33	\$1.26				\$1.35
	Number of Units	6	12	4				22
	Vacancy Rate	16.67%	8.33%	0.00%				9.09%
TIERRASANTA	Average Rent				\$1,398		\$1,553	\$1,839
	Average Sqft				620		919	1,151
	Average \$/Sqft				\$2.25		\$1.69	\$1.60
	Number of Units				68		48	224
	Vacancy Rate				0.00%		0.00%	0.00%
Total Average Rent		\$750	\$1,000	\$1,225	\$1,372	\$1,451	\$1,560	\$1,728
Total Average Sqft		500	750	841	671	731	786	953
Total Average \$/Sqft		\$1.50	\$1.33	\$1.46	\$2.05	\$1.98	\$1.99	\$1.81
Total Number of Units		6	12	8	322	462	620	4,069
Total Vacancy Rate		16.67%	8.33%	0.00%	1.55%	2.16%	0.97%	1.92%
MARKETPOINTE REALTY ADVISORS 2.08								

The table above has filtered the apartments in the City Heights Competitive Rental Market to only projects built since 1990. Only one third of all apartments in this area have been built since 1990. Of the 4,069 units built since 1990, 90.2% are in Mission Valley, 8.3% are in Tierrasanta and the remaining 1.3% are in Hillcrest and North Park.

There are no market-rate apartment projects in our survey that have been built since 1990 in East San Diego (including City Heights), Normal Heights, Grantville, Kensington or Talmadge.

City Heights and its surrounding neighborhoods are distinguished by pre 1970's, C – grade, apartments that are relegated to smaller projects.

C03160

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Below is the summary with specific data for the apartment projects in the City Heights Competitive Rental Area that have been built since 1990. Of the eleven projects, all but four are in Mission Valley and most are owned by major national players in the apartment market.

With the exception of the Mid-Cajon apartments in North Park, the remaining projects rent for above \$1.49 per square foot. The vacancy rate averages 1.92% in these projects.

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**MarketPointe**  
 REALTY ADVISORS

DEVELOPMENT SUMMARY APARTMENT PROJECTS BUILT SINCE 1990 CITY HEIGHTS COMPETITIVE RENTAL AREA 3RD QUARTER 2007											
Development/Owner	Weighted Average			Ranges			Date		Vacancy		
	Rent	Sqft	\$/sqft	Rent	Sqft	\$/sqft	Opened	Units	Leased	Vacant	Rate
ARCHSTONE MISSION VALLEY ARCHSTONE COMMUNITIES	\$1,617	941	\$1.72	\$1,370	726	\$1.61	15-Aug-00	736	724	12	1.6% MISSION VALLEY
ARCHSTONE PRESIDIO VIEW ARCHSTONE SMITH	\$1,863	929	\$2.01	\$1,725	729	\$1.67	1-Apr-06	350	338	14	4.0% MISSION VALLEY
FASHION TERRACE C. M. HOMER TRUST	\$1,495	1,006	\$1.49	\$1,300	835	\$1.45	15-May-90	73	73	0	0.0% MISSION VALLEY
FIRST AND PENNSYLVANIA APARTMENTS DANUBE PROPERTIES	\$1,514	909	\$1.67	\$1,550	731	\$1.66	1-Apr-93	34	32	2	5.9% HILLCREST
MID-CAJON APARTMENTS N/A	\$968	718	\$1.35	\$750	500	\$1.26	1-Nov-91	22	20	2	9.1% NORTH PARK
PORTOFINO H.G. FENTON COMPANY	\$1,846	1,025	\$1.80	\$1,565	727	\$1.66	6-Apr-04	396	395	1	25.0% MISSION VALLEY
REFLECTION VILLAGE AT LA MIRAGE EQUITY RESIDENTIAL	\$1,710	1,011	\$1.69	\$1,398	620	\$1.53	1-May-01	340	340	0	0.0% TIERRASANTA
RIVER FRONT H.G. FENTON COMPANY	\$1,650	1,018	\$1.62	\$1,650	977	\$1.60	10-Aug-90	228	228	0	0.0% MISSION VALLEY
THE MISSIONS AT RIO VISTA DEL MAR PACIFIC	\$1,787	972	\$1.84	\$1,575	706	\$1.59	22-Oct-98	250	250	0	0.0% MISSION VALLEY
THE PROMENADE - RIO VISTA JP MORGAN	\$1,789	951	\$1.88	\$1,490	652	\$1.68	1-May-02	970	950	20	206.0% MISSION VALLEY
VILLA DORADO MONTE VISTA THE IRVINE COMPANY	\$1,687	879	\$1.92	\$1,365	610	\$1.66	30-Aug-98	670	643	27	402.0% MISSION VALLEY
									4,069	3,991	78 1.92%
MARKETPOINTE REALTY ADVISORS 2.08											

Overall, the apartment market in the City Heights Competitive Rental Area remains tight, with very limited possibilities of new construction other than class "A" apartment complexes with rents averaging more than \$2,000 for a two-bedroom apartment.

Also, the supply of three-bedroom apartments is negligible in all price ranges. The proposed subject property and the 116-unit Village Townhomes built in 2003 at Fairmount and Wightman may have the largest combined selection of modern three-bedroom units in the City.

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MarketPointe  
REALTY ADVISORS**Section 3: The Work/Live Apartment Market**

During the course of this study, we conducted a survey of selected rental apartments to learn about the percentage of rental apartments in today's San Diego market in which residents maintain a work environment.

We learned that there are three basic types of work/live apartment residencies:

- The "Electronic" Resident

This resident type works either full-time or flex-time in the residence, connected to the business world by computer and cell phone. Most often, this resident type is college-educated, comparatively upscale in income and lives in a "B" or "A" quality rental apartment.

- The Occasional Customer or Colleague Resident

This resident type works out of their apartment, using it as a base of operations. Typically, this resident type will be in sales or another form of work that requires them to go to clients during the course of the day. They may be self-employed or commission agents. Rarely, but occasionally, they will invite a customer/client to their residence, but not often.

- The Personal Service Resident

This resident type often works out of their apartment offering personal services to a regular clientele. Often this resident is a sole practitioner in the counseling field or offers services that warrant visits on a regular basis to the practitioner's place of business.

**The Survey Results**

We asked the regional managers of five major property management firms to inquire of their resident managers the percentage of persons who work either part-time or full-time at home. In this exercise, we could, of course, only obtain the best guess of the resident managers, but, at that, we were able to gain substantial knowledge of the renting public in San Diego County.

First, we want to note that as late as ten years ago, the parking lots emptied out in the morning and stayed that way all day until the residents returned from work that evening.

Today, it is a far different story, with resident managers telling us that the parking lots/garages are rarely completely empty. We know from public transit statistics that the reason for the lots being filled or partially filled is unrelated to persons taking public transit to work.

The highest rates of persons working at home were in the more upscale complexes near the coast or in areas like Mission Valley or Carmel Valley or downtown. Lesser



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 REAL ESTATE ADVISORS

percentages of persons working at home were evident in the less expensive rental neighborhoods and in the distant suburbs.

Most residents who worked at home were "electronic" residents. Relatively few of the residents in either category (upscale or less expensive) were of the occasional customer or personal service type.

The survey covered more than 70 rental projects with more than 10,000 units.

The survey results varied significantly from neighborhood to neighborhood and some of the survey data reported was more detailed than others.

Typically, in the upscale neighborhoods, the consensus was that 15-30% of the residents in upscale neighborhoods worked part-time or full-time at home. Many were on flex-schedules allowing them to work at home a day or two a week.

In the middle-income areas, the typical work at home percentage was in the 3-10% range, with an average of 3-4%.

RESIDENTS WORKING AT HOME A SURVEY OF SELECTED PROJECTS SAN DIEGO COUNTY JANUARY 2008					
			TYPE OF PROPERTY		
MGT. FIRM	PROJECTS SURVEYED	UNITS SURVEYED	OVERALL	UPSCALE	MIDDLE-INCOME
1	11	2,800	30% HAVE RESIDENTS WORKING OUT OF THEIR HOME MORE THAN 20 HRS./WEEK. HALF OF THEM ARE SELF- EMPLOYED; HALF WORK FOR SOMEONE ELSE.	UP TO 45% WORK FROM HOME IN COMMUNITIES WITH RENTS PER SQ.FT. OVER \$1.75/AVG. \$1,700/MONTH	
2	9	352	FEWER THAN 10%	3%	9%
3	20	2,700	WORK FULL-TIME OUT OF APT.: 1.5%; WORK PART-TIME OUT OF APT.: 1.8%		WORK FULL-TIME OUT OF APT.: 1.5%; WORK PART-TIME OUT OF APT.: 1.8%
4	20+	3,300		URBAN UPSCALE; 25-30%	SUBURBAN AND INLAND EMPIRE: UP TO 10%
5	7	1,058		URBAN UPSCALE 10-15%	SUBURBAN MODERATE: 2-6%
TOTAL	70+	10,210			

MARKETPOINTE REALTY ADVISORS 2.08

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REAL ESTATE AND INVESTMENT**Section 4: Findings and Recommendations**

The 94-unit City Heights Square apartments are designed for families and / or multi-generational households, a household profile assured by the mix of predominantly three-bedroom units. If City Heights Square emulates the Village Townhomes, the occupancy would average four to five persons per unit and therefore have a project population of more than 400 persons.

We are of the opinion that the subject apartments, catering predominantly to residents with moderate incomes, would not attract a tenancy type that would warrant designing the units or the project to accommodate work / live occupancy.

The profile of the "electronic" resident in all likelihood is not going to be a primary tenant type in the project. Further, the "electronic resident" does not need any special room or equipment to function in his or her business. Their workplace is totally portable, and it is unnecessary to explore design elements to accommodate that marketplace.

The other two types of resident (occasional customer or personal service) appear to be a relatively small share of today's apartment marketplace in the suburbs. Further, we are unable to perceive any changes in the architecture of a unit that would cater to that segment of the market.

We are of the opinion that it is in the best interest of your anticipated tenancy to discourage residency that would have a clientele visiting on a regular or occasional basis. Our major concern is that of security and safety. The City Heights neighborhood is gradually moving toward middle-class and one highly concerned with safety issues. Residents, and particularly women and children, need to feel that their place of residency is secure from unknown outside parties.

It would be exceptionally difficult for the resident managers of a project to keep track of persons visiting residents, and a heavy burden if it becomes necessary for a resident manager to have to register guests of tenants who conduct business in their apartments. And, of course, resident managers cannot be expected to monitor the entrances around the clock.

Unless the project has a video-entry system, operable from the unit, it would also prove difficult for someone to operate a business there.

Further, parking in the neighborhood is an issue as the density there increases. Therefore, should residents have visitors on a regular basis, it would appear likely that they may expect them to use the garage. That concept defeats the overall security plan for the project.

On balance, we would discourage the concept of live/work apartments for residents who find it necessary to have clientele visit them, even occasionally. Certainly, the "electronic" resident is welcome as, in all probability, a visiting clientele would rarely be present.

003165

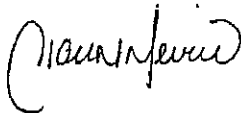
**MarketPointe**  
REALTY ADVISORS**Live/Work Lofts**

We have considered the possibility of having work/live units with the work component of the space on the first floor and then direct walk-up access to living space upstairs. Although the concept sounds enticing, it has several major drawbacks. The first and probably most important is that it substantially limits the possibility of renting the space to retail tenants who do not want the living space upstairs or access thereto. Similarly, it automatically defines the size of the work space on the first floor so that a potential larger tenant could find it difficult to plan their space needs effectively. A far more practical alternative for a person wanting to live nearby their work space would be to rent a retail space on the first floor and live in any apartment of their choosing elsewhere in the complex.

We have enjoyed working on this assignment and look forward to answering any questions regarding the data that you may have.

Respectfully submitted,

**MARKETPOINTE REALTY ADVISORS**



Alan N. Nevin  
Director of Economic Research

**AMENDMENT  
TO THE  
MID-CITY COMMUNITIES PLAN**

On (date to be determined), the City Council adopted an amendment to the Mid-City Communities Plan by Resolution (# to be determined) to change the following land use designations associated with the City Heights Square Project (PTS# 146605) located at 4300 University Avenue, and the following land use maps to reflect the location of existing public facilities:

- Approx. 0.13 acres from Residential to Commercial and Mixed-Use (73 du/ac)
- Approx. 2.62 acres from Commercial and Mixed-Use (29 du/ac and up to 43 du/ac) to Commercial and Mixed-Use (73 du/ac)
- Figure 11, City Heights Community Plan Map: Indicate current location of post office at 4193 University Avenue; indicate current location of police station at 4008 Federal Boulevard; show the Residential land use designation of the half-block north of the Edison Elementary School site
- Figure 31, Mid-City Communities Plan Map: Indicate current location of post office at 4193 University Avenue; indicate current location of police station at 4008 Federal Boulevard; show the Residential land use designation of the half-block north of the Edison Elementary School site

On (date to be determined), the City Planning Commission recommended approval of the amendment.

Adopted revised community plan graphics are attached. If approved, these revisions will serve as an addendum to the Mid-City Communities Plan.

Please note that no language within the Mid-City Communities Plan is affected by the proposed amendment; the only changes proposed are to Map Figures.

For further information regarding these amendments, please contact the Mid-City community planner at (619) 235-5200.

003169

Figure 11  
City Heights Community Plan Map

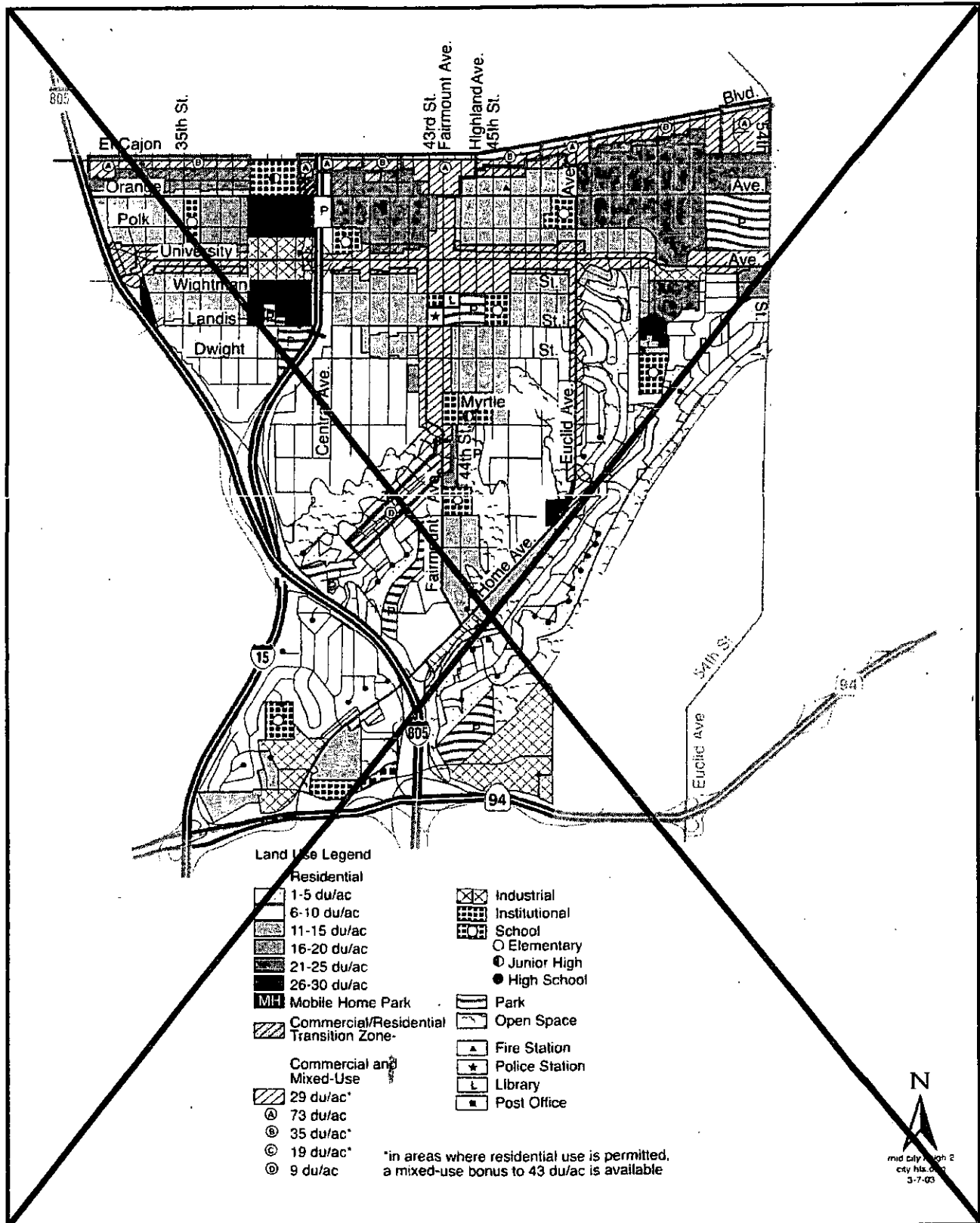
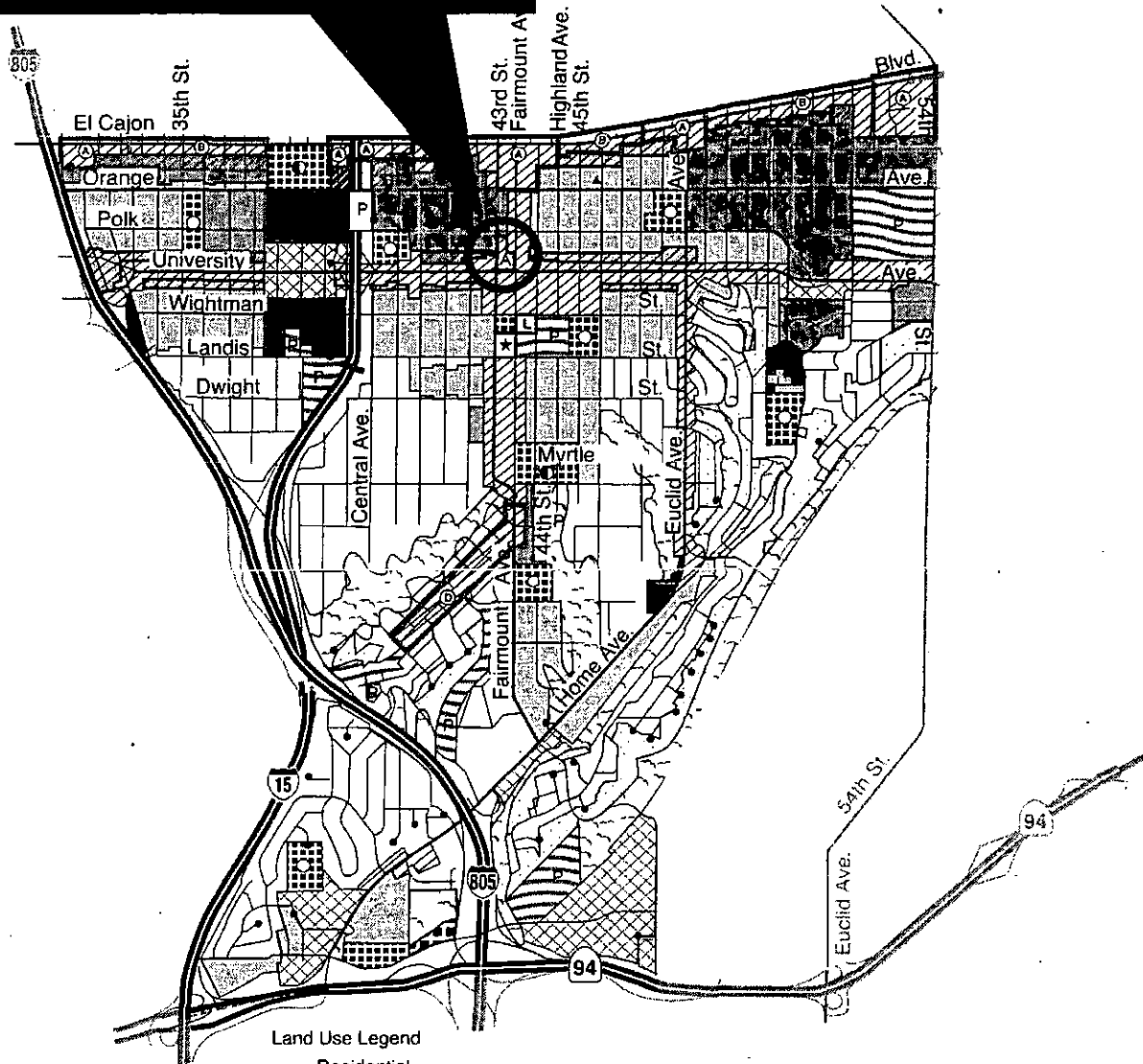


Figure 11

City Heights Community Plan Map

2.69 acres from Commercial and Mixed-Use  
(29 du/ac and up to 43 du/ac)  
and 0.13 acres from Residential (21-25 du/ac)  
to  
Commercial and Mixed-Use (73 du/ac)



Land Use Legend

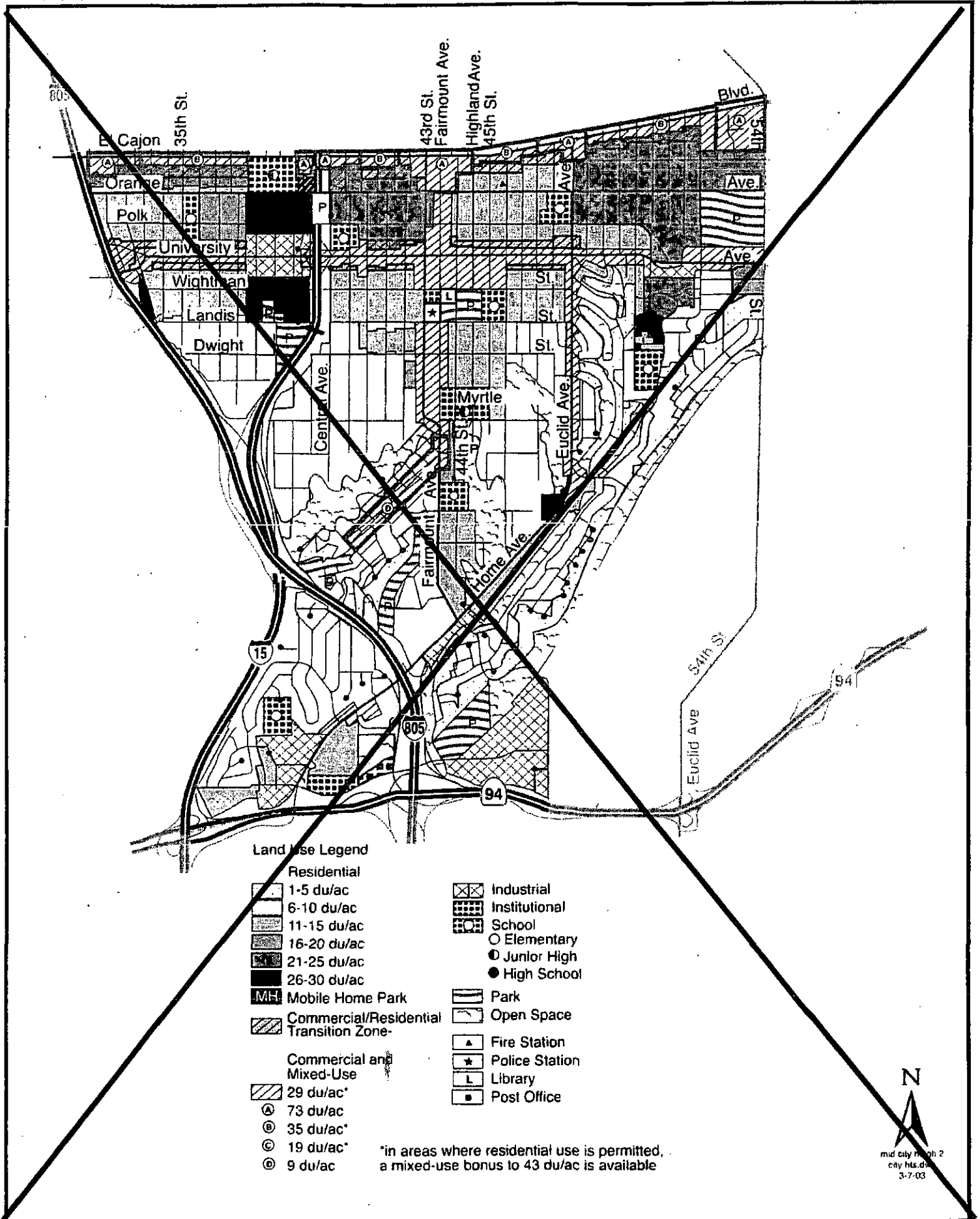
- |   |                |
|---|----------------|
| Residential<br>1-5 du/ac                  | Industrial     |
| Residential<br>6-10 du/ac                 | Institutional  |
| Residential<br>11-15 du/ac                | School         |
| Residential<br>16-20 du/ac                | Elementary     |
| Residential<br>21-25 du/ac                | Junior High    |
| Residential<br>26-30 du/ac                | High School    |
| Mobile Home Park                          | Park           |
| Commercial/Residential<br>Transition Zone | Open Space     |
| Commercial and<br>Mixed-Use<br>29 du/ac*  | Fire Station   |
| 73 du/ac                                  | Police Station |
| 35 du/ac*                                 | Library        |
| 19 du/ac*                                 | Post Office    |
| 9 du/ac                                   |                |

\*in areas where residential use is permitted,  
a mixed-use bonus to 43 du/ac is available



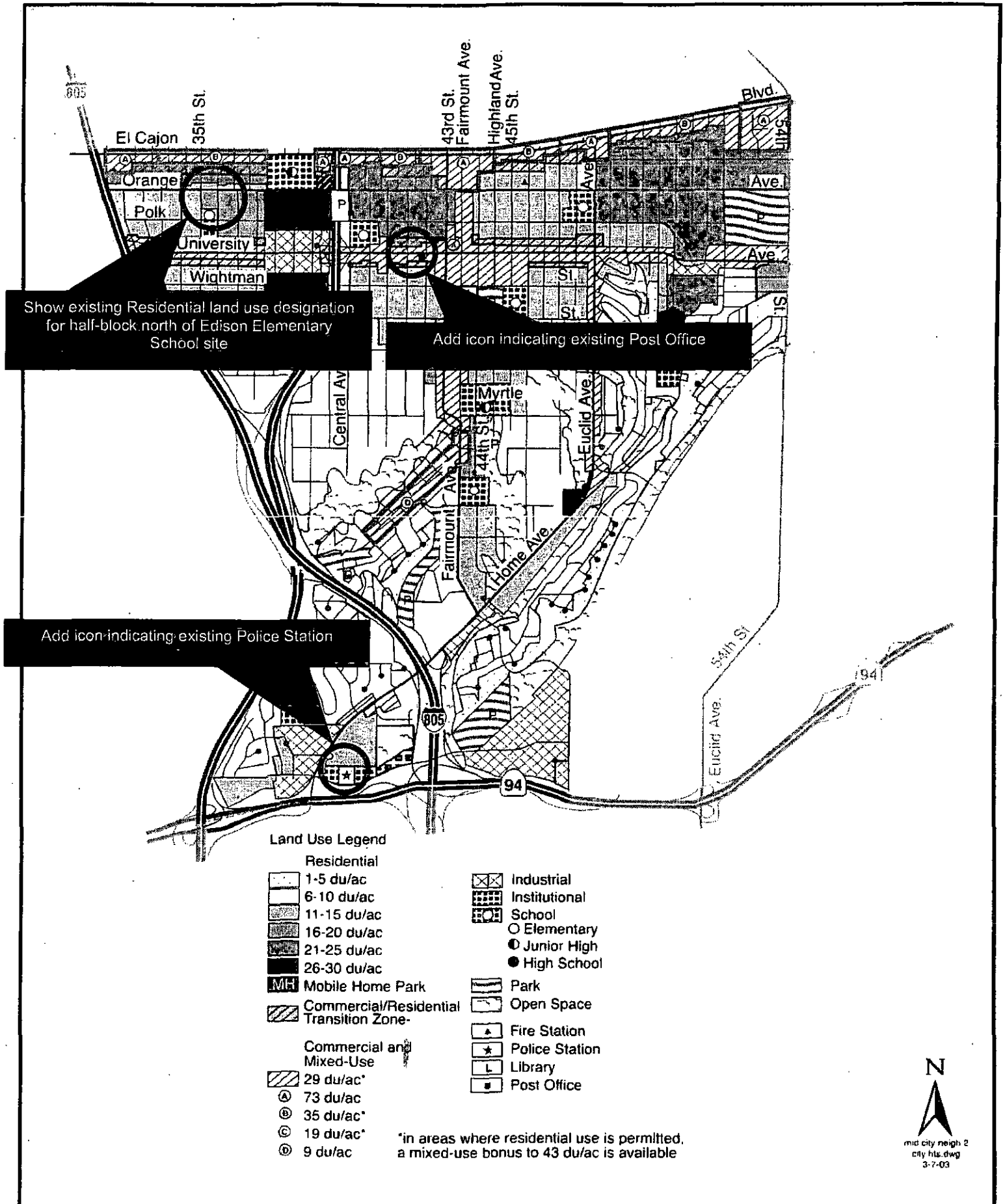
003171

# City Heights Community Plan Map



003172

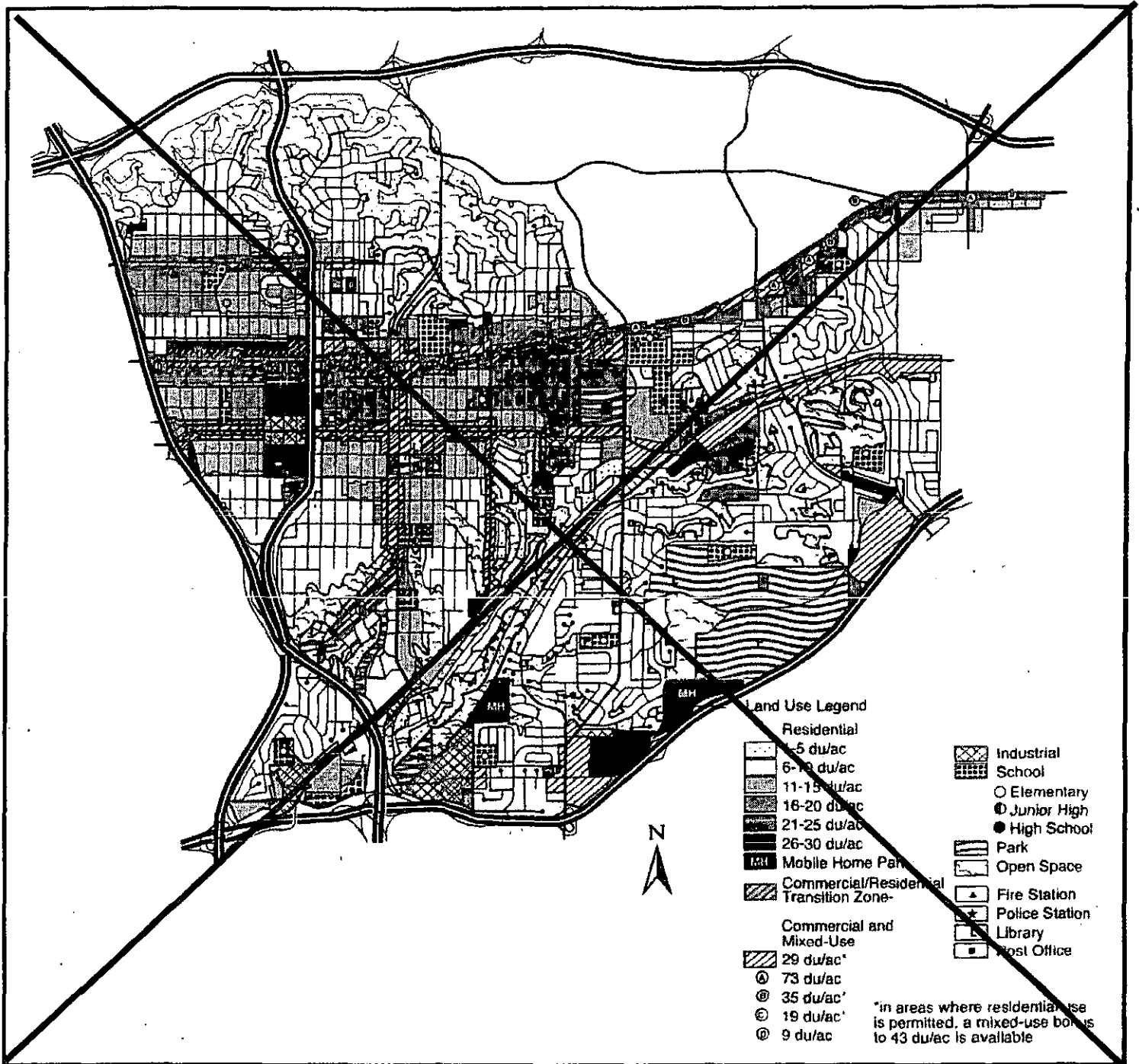
# City Heights Community Plan Map





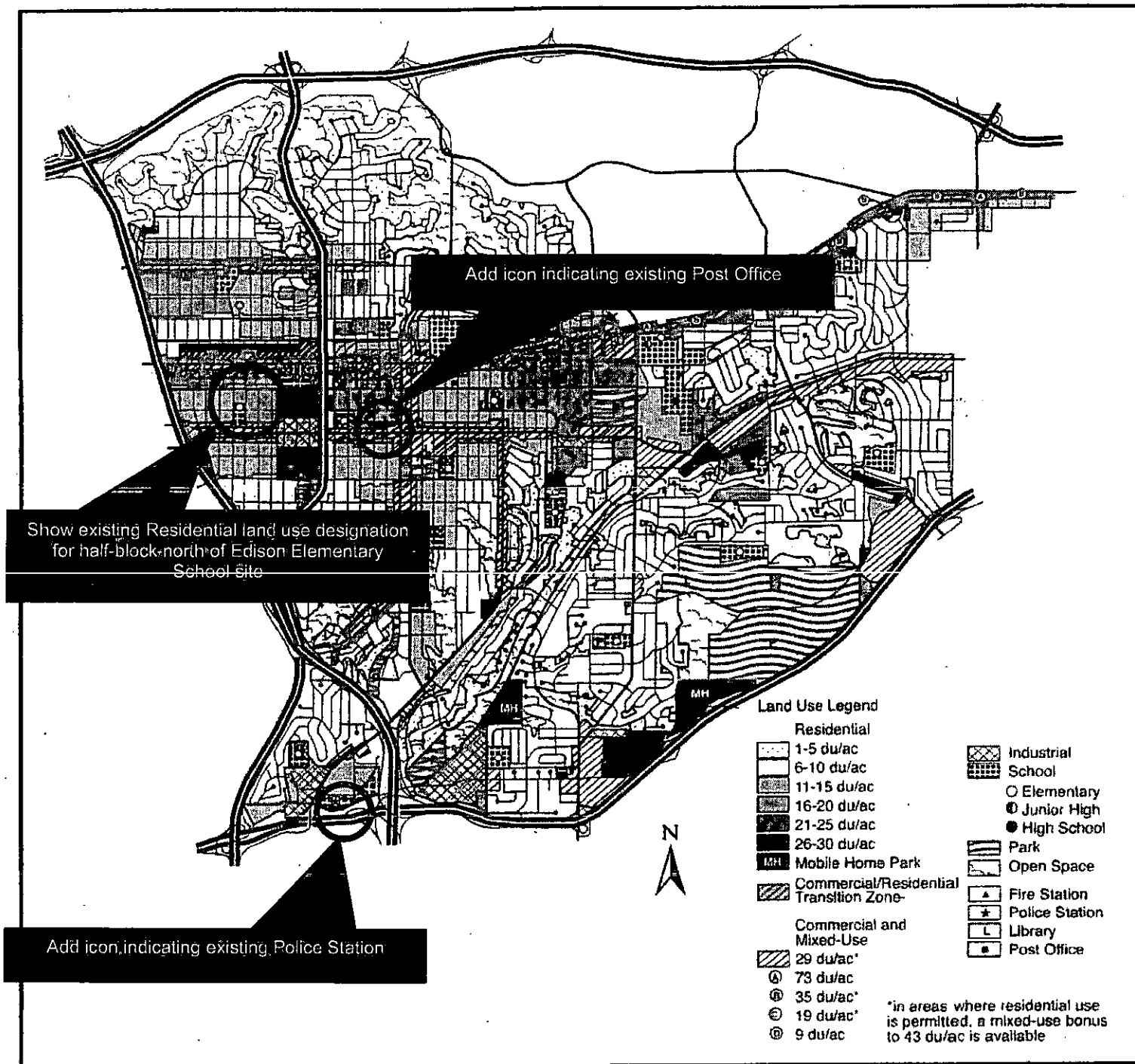
003173

## Mid-City Communities Plan Map



003174

## Mid-City Communities Plan Map



003175

CITY OF SAN DIEGO • DEVELOPMENT SERVICES

**PROPOSED REZONING**

PAR 1,2,3 &amp; 4 BLK 46 LOTS 25-28

ORDINANCE NO. \_\_\_\_\_

EFF. DATE ORD. \_\_\_\_\_

ZONING SUBJ. TO \_\_\_\_\_

BEFORE DATE \_\_\_\_\_

EFF. DATE ZONING \_\_\_\_\_

MAP NAME AND NO. \_\_\_\_\_

REQUEST CU-2-4

PLANNING COMM.  
RECOMMENDATIONCITY COUNCIL  
ACTION

CASE NO. 146605

DEVELOPMENT SERVICES MANAGER

**B- 4274**

APN: 471-452-27,30, 37,38,40 ,&amp; 42

(212-1737U) 10-23-08 LDJ

**Rezone Ordinance**

(O-\_\_\_\_\_)

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 2.78 ACRES LOCATED IN THE BLOCK BOUNDED BY UNIVERSITY AVENUE, 43<sup>RD</sup> STREET, FAIRMOUNT AVENUE AND POLK AVENUE, WITHIN THE CITY HEIGHTS NEIGHBORHOOD OF THE MID-CITY COMMUNITIES PLAN AREA; IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE CT-2-3 AND CU-2-3 ZONES OF THE CENTRAL URBANIZED PLANNED DISTRICT, INTO THE CU-2-4 ZONE OF THE CENTRAL URBANIZED PLANNED DISTRICT, AS DEFINED BY CHAPTER 15, ARTICLE 5, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE; AND REPEALING ORDINANCE NO. \_\_\_\_\_ (NEW SERIES), ADOPTED \_\_\_\_\_, OF THE ORDINANCES OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HERewith.

WHEREAS, under Charter section 280(a)(2) this ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required to by law to consider evidence at the hearing and to make legal findings based on evidence presented; NEW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That 2.78 acres, roughly bounded by University Avenue, 43<sup>rd</sup> Street, Fairmount Avenue and Polk Avenue, and legally described as Parcels 1 through 4, inclusive of Parcel Map No. 19854; together with Lots 25 through 28, inclusive in Block 46 of City Heights, per Map thereof No. 1007, excepting therefrom the easterly 10 feet; together with the easterly 10

feet of the vacated unnamed alley abutting said Lots 25 through 28, in the City Heights neighborhood of the Mid-City Communities Plan area, in the City of San Diego, California, as shown on Zone Map Drawing No. B-4274 filed in the office of the City Clerk as Document No. OO- \_\_\_\_\_, are rezoned from the CT-2-3 and CU-2-3 Zones of the Central Urbanized Planned District into the CU-2-4 Zone of the Central Urbanized Planned District; as the zones are described and defined by San Diego Municipal Code Chapter 15 Article 5 Division 2. This action amends the Official Zoning Map adopted by Resolution R-301263 on February 28, 2006.

Section 2. That Ordinance No. \_\_\_\_\_ (New Series), adopted \_\_\_\_\_ of the ordinances of the City of San Diego is repealed insofar as the same conflicts with the rezoned uses of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of adoption of this ordinance.

APPROVED: MICHAEL AGUIRRE, City Attorney

By \_\_\_\_\_  
Attorney name  
Deputy City Attorney

Initials~

Date~

Or.Dept: INSERT~

Case No.43-0074

O-\_\_\_\_\_

Form=inloto.frm(61203wct)

003179

## City Heights Area Planning Committee

Postoffice Box 5859  
San Diego CA 92165  
(619) 280-3910

October 21, 2007

MEMORANDUM FOR: The Committee

From: Jim Varnadore, Chair \_\_\_\_\_

Subj: Community Plan Amendment for City Heights Square

1. The Planning Commission met October 18 to consider a request to initiate a Community Plan Amendment for the Price Charities project on University Avenue between 43rd Street and Fairmount Avenue. As well as I could write them, the commission discussion included these elements:

SCHULTZ: The marketplace at the moment shows greatest demand for new residential construction, not job generation, so this residential project proposes to replace an office/retail project with housing. City Heights already has a "morning exodus", as people leave for jobs outside the community. It would be better for City Heights if the applicant were to look at a development with greater potential to create jobs.

GARCIA: Community need is and should be superior to market conditions. The applicant might consider a live-work component to this project.

GARCIA: Recreation is needed here, and more than a pocket park designed to suit the seniors in the adjacent building. An effort should be made to fit recreation facilities to the people in the community.

GARCIA: Community Plan Amendments should be a group of suggested plan amendments to choose from. There should be choices for this site.

GARCIA: The suggested plan amendments should each specify how the new phase of the project will work together with the senior housing and the expected clinic.

GARCIA: The draft plan amendments should be reviewed by the planning group before they come to the Commission.

OTSUJI: The applicant should make a good effort to work with the community and to accept community suggestions into the draft plan(s).

SCHULTZ: The applicant should consider some work-force housing in the draft plan(s) to accommodate workers at nearby locations.

2. Commissioner Garcia moved to approve the initiation, with the proviso that various commission recommendations are implied in her motion. Commissioner Otsuji offered the second, and the Commission voted 6/0/0 to approve the motion.

## City Heights Area Planning Committee

Postoffice Box 5859  
San Diego CA 92165  
(619) 280-3910

May 8, 2008

MEMORANDUM FOR: Planning Commission  
DPM Michelle Sokolowski

From: Jim Varnadore, Chair \_\_\_\_\_

Subj: 4302 University Avenue (PTN146605)

1. At its May meeting, the Committee heard a presentation about the subject project. After discussion, it was moved and seconded to recommend approval of an amend-ment to the Mid-City Communities Plan, page 29; an amendment to PDP 308092, an amendment to NUP 327436, an amendment to CUP 308101, an amendment to SDP 308102, and a rezone of the parcel in question from CU-2-3 to CU-2-4. The Com-mittee voted 15/0/0 (Chair not voting) with one voluntary recusal.
2. The Chair requested of the applicant's representative that no language for these amendments be approved by the applicant until after the Chair had reviewed the draft language. The applicant's representative agreed to that request.

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**OWNERSHIP INFORMATION**

**Project No. 146605**

(individual parcel ownerships available upon request)

**Owner:** City of San Diego Redevelopment Agency

**Owner:** City Heights Realty, LLC

Sole Member: Price Charities

**Officers of Price Charities:**

Robert Price, President

Jack McGrory, Executive Vice President

Sharon Bahrambeygui, Secretary

**Board of Directors of Price Charities**

Sol Price

Robert Price

Allison Price

Murray Galinson

Jack McGrory

William Gorham

Sharon Bahrambeygui

As a non-profit, public-benefit corporation, Price Charities does not have an "owner." In the event of dissolution, its net assets would be given to another qualified charity.

Name of persons (if any) who have a personal financial ownership interest in the development: NONE.



**APPLICANT: CURRENT/FUTURE USERS OF SITE****La Maestra Family Clinic, Inc.:****Officers of the Corporation:**

Zara Marselian, CEO  
Elizabeth David, CFO  
Alejandrina Areizaga, COO

**Board of Directors of the Corporation:**

Charlene Castro  
Michael Delgado  
Alma Duran  
Carlos Hanessian  
John Lethin  
Samuel Mireles  
Hassan Obsiye  
Alexei Ochola  
Graciela Putzoli  
Jessica Quiroz  
Ofelia Sandoval  
Antonio Mendivil  
Lamthot Muang

Name of persons (if any) who have a personal financial ownership interest in the development: NONE.

**Senior Community Centers of San Diego:****Officers of the Corporation:**

Paul Downey, President & CEO  
Maureen Piwowarski, Secretary & COO  
Lea Cruz, , Controller

**Board of Directors of the Corporation:**

Will Beamer, Chair, Finance  
Susan J. Boyle, Esq.  
V. Scott Cairns, AIA  
Susan Channick, Esq.  
Tana Cleaves, CTFA  
Darlyn Davenport

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Kate Engler, Board Chair  
Rosalie Gerevas  
Chris Gold  
Dale Goldman  
Susan Gonick, Esq.  
Jon Heller  
Lisa Mednick  
Mary O'Tousa  
Kathy Parker  
Sheila Potiker  
Arlene Prater, Esq.  
Randi Rosen  
Marge Schmale, Vice Chair  
Mark Sherwin  
Thomas A. Smith  
Janet Stannard  
Joy Vaccari  
Nancy Vaughan, Esq.  
Nykia J. Wilson, Esq.  
Debi Zumtobel

Name of persons (if any) who have a personal financial ownership interest in the development: NONE.

**Chelsea Investment Corporation (partnering with Senior Community Centers of San Diego for the senior facility).**

Officers of the Corporation:

James Schmid, CEO  
Wallace C. Dieckmann, CFO  
Robert Harrington, Vice President  
Veronica Cano, Sr. Compliance Officer  
Jerry Hannon, Controller

Name of persons (if any) who have a personal financial ownership interest in the development: NONE.

DEVELOPMENT SERVICES  
**Project Chronology**  
 CITY HEIGHTS SQUARE AMENDMENT - PROJECT NO. 146605

<b>Date</b>	<b>Action</b>	<b>Description</b>	<b>City Review Time</b>	<b>Applicant Response</b>
1/17/08	First Submittal	Project Deemed Complete	--	
4/11/08	First Assessment Letter	First assessment letter sent to Applicant	85 days	
5/22/08	Second submittal	Applicant's response to first assessment letter		41 days
7/10/08	Second Assessment Letter	Second assessment letter sent to Applicant	49 days	
8/21/08	Third submittal	Applicant's response to third assessment letter		42 days
10/14/08	Third review complete	All issues addressed	54 days	
11/6/08	Public Hearing-Planning Commission	Planning Commission Hearing	23 days	
<b>TOTAL STAFF TIME**</b>			<b>211 days</b>	
<b>TOTAL APPLICANT TIME**</b>				<b>83 days</b>
<b>TOTAL PROJECT RUNNING TIME**</b>		From Deemed Complete to PC Hearing	<b>294 days</b>	

\*\*Based on 30 days equals to one month.



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THE CITY OF SAN DIEGO

ATTACHMENT 18

## REPORT TO THE PLANNING COMMISSION

DATE ISSUED: June 16, 2005 REPORT NO. PC-05-201

ATTENTION: Planning Commission, Agenda of June 23, 2005

SUBJECT: CITY HEIGHTS SQUARE - PROJECT NO. 40960. PROCESS FIVE

OWNERS/  
APPLICANTS: 1. San Diego Revitalization Corporation, a California Non-Profit Public  
Benefit Corporation (Attachment 12)  
2. City of San Diego Redevelopment Agency

### SUMMARY

**Issues:** Should the Planning Commission recommend to the City Council approval of a Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit, Site Development Permit and vacation of water, sewer and general utility easements for the demolition of existing structures and the construction of a mixed-use development on the general block bounded by Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue?

**Staff Recommendation:** Recommend Approval of Planned Development Permit No. 116927, Neighborhood Use Permit No. 116298, Conditional Use Permit No. 116929, Site Development Permit No. 228858, and Easement Vacation No. 116930.

**Community Planning Group Recommendation:** At their October 4, 2004, meeting the City Heights Area Planning Committee (CHAPC) voted 10-3-1 to recommend approval of the proposed project with a request to have the CHAPC review final park plans and the traffic analysis and overall parking plan. The CHAPC has since reviewed the traffic analysis and parking plan at their February 7, 2005, meeting, and will review the park plans when they are developed, as required within the draft permit conditions. (Attachment 10)

**Other Recommendations:** The City Heights Redevelopment Project Area Committee indicated their support of the project at their May 10, 2004, April 11, 2005, and April 27, 2005, meetings with no additional recommendations (Attachment 11).

**Environmental Review:** The City of San Diego Development Services Department on



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behalf of the Redevelopment Agency as Lead Agency under State of California Environmental Quality Act (CEQA) Guidelines has prepared and completed a Mitigated Negative Declaration, Project No. 40960, and associated Mitigation, Monitoring and Reporting Program, dated April 15, 2005, covering this activity, which was adopted on May 3, 2005, by the City Council acting as the Redevelopment Agency per Resolution No. R-300384. The adopted Mitigation, Monitoring and Reporting Program will be implemented to reduce potential impacts to health and safety, paleontology, transportation/circulation/parking, and waste management to below a level of significance.

**Fiscal Impact Statement:** None with this action. Project costs are paid by the applicant through a deposit account.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** According to the Mid-City Communities Plan, the 2.857-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 120 residential dwelling units. Additionally, the applicant is requesting a 21% affordable housing density bonus based on the maximum dwelling units allowed by the CU-2-3 zone in order to allow a total of 151 total housing units. The project would result in the demolition of 5 existing single-family residences, creating a net gain of 146 housing units within the City Heights community.

The project exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside 99% of the proposed units (150 affordable units and 1, two-bedroom manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of Area Median Income (AMI). The affordable units would consist of 75 studio units and 75 one bedroom units and would be affordable in perpetuity.

## **BACKGROUND**

The City Heights Square project site is located between Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue, within the City Heights neighborhood of the Mid-City Communities Plan (Attachment 1). The project site is located within the CU-2-3 and CT-2-3 Zones of the Central Urbanized Planned District, the Transit Overlay Zone, and is designated as a facilities-deficient neighborhood. The CU-2-3 and CT-2-3 Zones are commercial zones which also permit residential development following the RM-3-7 Zone development regulations. The 2.857-acre site is located within the City Heights Redevelopment Area.

According to the Mid-City Communities Plan, the project site is currently designated for Residential, Commercial, and Mixed-Use development. The northern portion designated for Residential (0.13 acres), allows multi-family residential development at a density of 21 to 25 dwelling units per acre and would potentially allow the development of 3 dwelling units. The remaining portion of the total project site that is designated for Commercial and Mixed-Use development (2.73 acres) allows a residential density of up to 43 dwelling units per acre and would

potentially allow the development of 117 dwelling units. Given the existing residential densities, a total of 120 dwelling units could be accommodated on the total project site according to the Mid-City Communities Plan. With the proposed density bonus of 21% for affordable housing, 151 total housing units could be constructed on the site without adversely affecting the Community Plan.

The site is currently partially vacant. An alley from Polk Avenue provides access halfway into the block. Existing sewer, water and general utility easements are located within and adjacent to this alley area. The northeast corner of this block is not included within this project. That corner is improved with an existing Whitecross Pharmacy, auto sales and residential uses. The site is surrounded by commercial uses to the north, a recent redevelopment project consisting of a 6-story office building and 134 town-home market rate and affordable rental units to the south, a church and residential units to the west, and commercial uses to the east.

The proposed mixed-use development project requires the following discretionary actions:

1. A Planned Development Permit to deviate from commercial and residential architectural features;
2. A Neighborhood Use Permit for the medical clinic use;
3. A Site Development Permit for deviations from applicable development regulations as an additional development incentive to a density bonus for affordable housing, FAR and for a mixed-use project in a facility deficient neighborhood;
4. A Conditional Use Permit for the proposed senior housing;
5. An Easement Vacation for the vacation of the existing water, sewer and general utility easements.

The project is subject to a Process 5 City Council decision due to the request for the easement vacation.

### Environmental Review History

The City Heights Square project site is located within the City Heights Redevelopment Plan area. A programmatic Environmental Impact Report (EIR), dated April 13, 1992, was prepared for the overall Redevelopment Plan, which was approved by the Redevelopment Agency and the City Council on November 28, 1994.

The Executive Summary of the program EIR describes the document as addressing impacts in an "overall general sense" (page E-2), with the anticipation that additional environmental review would be required as activities under the Redevelopment Plan are introduced.

The EIR also cites Section 15162 of the California Environmental Quality Act (CEQA)

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(Introduction pp 1-2) and acknowledges that subsequent/supplemental EIRs, addenda, or Negative Declarations would need to be prepared for specific Redevelopment plan projects and programs if any of the following conditions occur:

1. The project will have one or more significant effects not discussed previously in the EIR;
2. Significant effects previously examined will be substantially more severe than shown in the EIR;
3. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project; or
4. Mitigation measures or alternatives which were not previously considered in the EIR would substantially lessen one or more significant effects on the environment.

In performing the environmental review of the City Heights Square project, Environmental Analysis Section staff identified potentially significant effects related to health and safety, paleontological resources, traffic, parking, and waste management. Specific mitigation measures would reduce the project's direct health and safety, paleontological, parking, and waste management impacts to below a level of significance, and would render the project's contribution to cumulative traffic impacts to less than cumulatively considerable.

Because the Redevelopment EIR defers the identification of specific project-related impacts and mitigation measures to subsequent environmental review and documentation, staff was unable to conclude that the EIR adequately addressed the City Heights Square project. Because additional impacts and mitigation measures were identified, staff was also unable to prepare an EIR addendum.

Staff prepared a Mitigated Negative Declaration (MND) rather than a subsequent or supplemental EIR because all impacts can be mitigated to below a level of significance. The MND was adopted by the Redevelopment Agency and reviewed and considered by the City Council; and the MMRP was adopted by the Redevelopment Agency and the City Council on May 3, 2005 in conjunction with the approval of two Disposition and Development Agreements.

## DISCUSSION

### Project Description:

The project proposes the demolition of existing structures and the construction of a new mixed-use development on a 2.857-acre site. A major portion of the site contained an Albertson's grocery store, which was previously demolished. Five residential units and one drive-through restaurant are slated for demolition. The new development will consist of an approximately 212,289-square-foot, mixed use development consisting of 151 residential units (150 senior units and one manager's unit), a medical clinic, retail and office space in three buildings, 451 parking spaces, and an approximately 5,348-square-foot recreational area. All buildings have subterranean parking and portions of the proposed parking structures will encroach underground into the alley and street rights-of-way. The recreational area will be under Park and Recreation Department ownership and

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control.

Retail and Office Use – Building 1

Building 1 is proposed to be a four-level building above subterranean parking with rooftop deck and mechanical penthouse. Approximately 89,788 square feet will be located within three levels of office uses above ground floor retail, in accordance with applicable zoning regulations. Potential tenants for the retail and office space have not yet been identified. Both surface level and subterranean parking are proposed for the site with a total of 267 parking spaces provided as 58 surface parking spaces and 209 subterranean parking spaces, accessed from both Fairmount Avenue and 43<sup>rd</sup> Street. An 87-foot-high tower is proposed at the corner of Fairmount and University Avenues.

La Maestra Clinic – Building 2

This outpatient medical clinic will be constructed and operated by La Maestra, a non-profit medical, dental and social service agency, in accordance with applicable zoning regulations. Building 2 is proposed to be a three-level building above subterranean parking. The building will contain approximately 31,926 square feet of both medical and non-medical uses. A total of 105 parking spaces will be provided for this use: 85 parking spaces will be located on two levels of subterranean parking below the Building 2; and 20 surface spaces will be located behind the building, and accessed from either of two alleys leading from Fairmount Avenue or Polk Avenue.

Senior Residential Facility – Building 3

The 151 residential units (150 senior units and one manager's unit) will be constructed and operated by Senior Community Centers of San Diego, which operates other senior facilities in San Diego, including the Potiker Family Senior Residence in downtown San Diego. The senior units are proposed for very low income residents, and as such the applicant has requested a density bonus and an additional development incentive in the form of reduced parking ratios and increased floor area ratio as part of their density bonus. State Density Bonus Law specifies that cities shall grant incentives requested by applicants unless the city makes a written finding, based upon substantial evidence of either of the following: A) The incentive is not required in order to provide for affordable housing costs or B) The incentive would have a specific adverse impact upon public health and safety or the physical environment, as defined in Section 65589.5(2)(d) (follows).

"The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."



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Because this development is providing over 15% of the units affordable to very low-income households (at/below 50% AMI) the developer is entitled to 3 development incentives. Senate Bill 1818 changed the State's Density Bonus Law effective January 1, 2005. Please refer to sections 65915, (d) and (l) of Attachment 14. Section (d) speaks to granting of incentives and section (l) defines what an incentive is. As stated in section 1, a reduction in the ratio of vehicular parking spaces and an increase in floor area ratio are qualified incentives. The minimum parking requirement for Building 3, for 151 very low income senior housing units and four staff is 110 spaces based on the rate of 0.7 spaces per unit for senior housing and 1 space per staff, respectively. The project proposes 79 parking spaces resulting in a deficit of 31 spaces. A shared parking agreement will be executed to provide 31 parking spaces within Building 1. Accordingly, staff is supporting the applicant's request for reduced parking and an increase in floor area ratio in accordance with SB 1818, as reflected in the Planned Development Permit and Site Development Permit findings, attached (Attachment 9).

The development will be subject to several affordable housing requirements, due to funding sources and land use incentives/requirements. These include State of California Tax Credit Allocation Committee regulations (9% tax credit application pending), Density Bonus regulations, Inclusionary Housing ordinance, and Redevelopment Agency requirements. The result of these various program requirements is that 99 percent of the units will be affordable to very low-income seniors with incomes at/below 50% AMI (currently \$27,600 for a 2-person household) in perpetuity. As a condition of permit approval for this site, the applicant must enter into an agreement with the San Diego Housing Commission prior to receiving the first building permit to ensure compliance with the affordable housing requirements of the City's Density Bonus Program and Inclusionary Housing Ordinance.

Building 3 is proposed to be a five-level building above subterranean parking. The building will contain 1 two-bedroom unit, 75 one-bedroom units, and 75 studio units. Staff offices, common areas and a kitchen will, combined with the residential units, total approximately 90,575 square feet. As indicated above, 79 parking spaces will be provided in the subterranean parking garage for this use. As a condition of permit approval, the applicant must execute a shared parking agreement for the use of 31 parking spaces in Building 1.

#### Recreational Area:

An approximately 5,348-square-foot public recreational area is proposed along the 43<sup>rd</sup> Street frontage, immediately south of the senior facility. Detailed drawings have not been completed for this area, however it is proposed to contain security lighting, drinking fountain, game tables, benches, a lawn area bordered by a pedestrian walkway, and drought tolerant shrubs and groundcover. Final construction drawings would be reviewed by the community in concert with the Park and Recreation Department, which would eventually obtain ownership of this park area. The park improvements will be installed by the Redevelopment Agency, after review, as conditioned within the permit.

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Planned Development Permit/Neighborhood Use Permit/Conditional Use Permit/Site Development Permit

As indicated above, the site is located within the CU-2-3 and CT-2-3 Zones of the Central Urbanized Planned District. The requested Planned Development Permit has incorporated the requested deviations and recreational area use, as allowed through that process. In addition, a Neighborhood Use Permit is required for the location of a medical clinic, a Conditional Use Permit is required for a senior housing facility, and a Site Development Permit is required for deviations from applicable development regulations as an additional development incentive to a density bonus for affordable housing, FAR and for a mixed-use project in a facility deficient neighborhood.

Deviations

As allowed through the Planned Development Permit and Site Development Permit processes, the applicant is requesting deviations to accommodate the proposed development, all of which are supported by staff and the community. The deviations are summarized as follows:

- a. A maximum structure height of 87'-2" where 50'-0" is the maximum permitted, per SDMC Section 151.0242, Table 151-02D;
- b. A 2'-6" side yard setback for Building 3 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;
- c. A 15'-0" street side yard setback along 43<sup>rd</sup> Street for Building 1 where a maximum of 10 feet is required for 30 percent of the street side yard, per SDMC Section 151.0242, Table 151-02D;
- d. A 6'-8" rear yard setback for Building 2 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;
- e. A deviation from the transparency requirements where 50 percent of the building wall between 3 feet and 10 feet above grade for Building 3 shall be transparent into a commercial or residential use, per SDMC Section 131.0552;
- f. A deviation from the open space requirement where 750 square feet of open space is required per dwelling unit for Building 3, per SDMC Section 151.0253(a)(3)(A);
- g. A floor area ratio of 1.75 where 1.50 is the maximum permitted for Buildings 1, 2 and 3, per SDMC Section 151.0242, Table 151-02D; and
- h. A reduction of the required number of parking spaces (79 spaces provided where 110 spaces are required) for Building 3, per SDMC Section 142.0530.

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- i. A deviation from the off-street loading requirement for Building 2 to one space, where two spaces are required, per SDMC Section 142.1010(a).

#### Sewer and Drainage Easement Vacation

The project proposes the vacation of existing water, sewer and general utility easements generally located near the alleys. Three such easements are proposed for vacation, as depicted within Drawing Nos. 20304-B, 20305-B and 20306-B (Attachment 6). Real Estates Assets staff has determined that the City does not have a monetary interest in these easements and that the vacations can move forward.

All existing services within these easement areas will be relocated to the surrounding public rights-of-way. All existing power in the general utility easement will be undergrounded as required.

#### Community Plan Analysis:

The 2.857-acre project site is located in the City Heights community of the Mid-City Communities Planning Area. As proposed, the project would not adversely affect the goals and recommendations in the Mid-City Communities Plan, but would implement several policies and recommendations of the community plan. The project proposal, consisting of retail, office, a medical clinic, and senior housing units, meets the existing land use recommendations in the community plan which call for the development of mixed-use development along University Avenue. Further, the proposed project would be located adjacent to the City Heights Urban Village and would contribute to creating a strong node of commercial and pedestrian activity within this area of City Heights. According to the Commercial Element of the community plan, new mixed-use development should also be focused at the intersections of major transportation corridors such as 43<sup>rd</sup> Street, Fairmount Avenue, and University Avenue. As proposed, the project would be located along University Avenue between 43<sup>rd</sup> Street and Fairmount Avenue.

Further, these intersections are designated as crossroad areas in the community plan and are envisioned to emphasize pedestrian orientation and create a sense of place. The building frontage along University Avenue between 43<sup>rd</sup> Street and Fairmount Avenue would be set back 5 feet from the property line creating a 15-foot wide sidewalk along University Avenue. At the University Avenue and Fairmount Avenue intersection, the building would be set back at an angle in order to accommodate a plaza area for seating, enhanced paving, and shade trees. The intersection of University Avenue and 43<sup>rd</sup> Street would also be designed to accommodate shade trees, landscape planters, benches, and to provide direct access to the 2<sup>nd</sup> story office suites via a wide stairway which would open up to the intersection. Additionally, the building at the corner of University Avenue and 43<sup>rd</sup> Street would contain a tower element that would be used as a community focal point/landmark.

The Residential Element of the Community Plan recommends new housing construction in a variety of types and sizes to meet the needs of future residents in from socio-economic backgrounds and also encourages the development of housing projects designed to accommodate the senior citizen

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population. The project's proposal of 151 housing units (150 senior and one manager's unit) would meet these recommendations. Given that the Mid-City area is deficient in public recreational facilities, new residential development is encouraged to provide amenities for passive and/or active recreation. As a recreational amenity, the project proposes a 5,348 square foot recreational area which would be developed and dedicated as a public park.

The project is located within a facility deficient neighborhood. For Facility Deficient Neighborhoods located in the Central Urbanized Planned District, 750 square feet of on-site recreational open space is required for residential and Mixed-Use projects proposing three or more units that are not located within 600 feet of a public park, a public school with joint use agreement with the City of San Diego, or a school that is open during non-school hours for public recreational use. Since the project does not meet this requirement, a Site Development Permit is required and supported for this requirement as the proposed project will utilize a density bonus to develop additional affordable housing units for very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of Area Median Income (AMI). While the additional density precludes compliance with the useable open space requirements, the project does provide a 5,348-square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 1,000 square foot activity room. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School.

#### Environmental Analysis:

A Mitigated Negative Declaration (Project No. 40960) was prepared for this project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. The Mitigated Negative Declaration and associated Mitigation, Monitoring and Reporting Program were adopted by the City Council acting as the Redevelopment Agency on May 3, 2005, by Resolution No. 300384 in conjunction with the Disposition and Development Agreements approved on that date. The proposed project includes mitigation measures to offset potential impacts to the environment in the areas of health and safety, paleontology, transportation/circulation/parking, and waste management. It should be noted that although the Mitigated Negative Declaration lists a variance as being required for this proposed project, a variance is no longer included with this action.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment was prepared for this project. This document indicated the site was previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

The project is underlain by the Linda Vista geologic formation, which has yielded important remains of nearshore marine invertebrates. The proposed grading for this project exceeds the City's thresholds of significance for potential impacts to paleontological resources. Implementation of the Mitigation, Monitoring and Reporting Program would require paleontological monitoring during excavations that could impact previously disturbed formations reducing potential impacts to below a level of significance.

A Traffic Impact Analysis for this project was prepared, as discussed within Mitigated Negative Declaration No. 40960, which estimated approximately 3,512 new driveway average daily trips (ADT) and 2,863 net cumulative ADT over the existing conditions. The project is not expected to have significant impacts on University Avenue frontage and the Mid-City Communities Plan does not recommend widening of University Avenue within this area. However, the analysis did indicate a cumulative impact is anticipated in the Year 2030 at the University and Euclid Avenues intersection which requires fairshare contributions, and an exclusive northbound left-turn lane on Fairmount Avenue in front of the project is needed. Therefore the project applicant would be required to provide a fairshare contribution to the construction of additional turn lanes as detailed within the Mitigation, Monitoring and Reporting Program.

Based on the Municipal Code requirements, 404 parking spaces are required for the entire project, and the applicant proposes 451 spaces. While the applicant proposes an excess of 78 spaces for Building 1, a deficiency of 31 spaces is proposed for Building 3. To ensure that adequate parking is provided for each component of this project, a shared parking agreement is required between Buildings 1 and 3. This parking mitigation measure has been incorporated into the project, thus reducing any potentially significant parking impact to below a level of significance.

According to the City of San Diego's Significance Thresholds for waste management, projects that propose an increase in density and would construct over 50 multi-family units are required to prepare a solid waste generate/disposal plan which addresses demolition, construction and the occupancy phases of the project. As mitigation for cumulative impacts to the landfill, a waste management plan must be prepared by the applicant and approved by the Environmental Services Department. Compliance with this mitigation condition would reduce the project's contribution to cumulative waste management impacts to less than considerable.

In addition to the above issue areas, hydrology/water quality and historical resources were considered during the environmental review of the project and were determined not to be significant.

#### Project-Related Issues:

##### Community Input

The proposed project has been the subject of several community meetings with both the City Heights Redevelopment Project Area Committee (PAC – the communication link between the Redevelopment Agency and the community) and the City Heights Area Planning Committee.

(CHAPC - the recognized community planning group).

During 2004, the applicant team met with both PAC and CHAPC members. There was significant input by community members in those meetings, which resulted in a large number of project modifications which were incorporated into the project, including: the addition of the tower element, changes to the design detail and colors, increased setbacks, and the replacement of large box retail with smaller users.

This redevelopment project was reviewed by the PAC at its May 10, 2004, April 11, 2005, and April 27, 2005, meetings. The PAC voted to recommend approval of the proposal at its April 27, 2005, meeting. Because there were two separate Disposition and Development Agreements for the project, the PAC's vote includes two separate actions. The PAC voted 10-4-1 to approve the office and retail component, and 14-1-0 to approve the senior housing component.

At their October 4, 2004, meeting the CHAPC voted 10-3-1 to recommend approval of the proposed project with a request to have the CHAPC review final park plans and the traffic analysis and overall parking plan. The CHAPC has since reviewed the traffic analysis and parking plan at their February 7, 2005, meeting, and will review the park plans when they are developed, as required within the draft permit conditions.

Other than a few comments received during the public review period in response to the draft Mitigated Negative Declaration, there have been no communications received regarding this project and no project concerns identified by the surrounding community.

#### Redevelopment Project

As indicated throughout this report, the proposed project is a redevelopment project. The project has an accelerated timeframe due to the availability of redevelopment funds from the State. The State of California's deadline for requests for funding is in mid-July, during City Council recess. The State requires the issuance of all entitlements prior to the application for request for funds.

#### Critical Project Features to Consider During Substantial Conformance Review

- LAND USE: The retail/office component of the property follows the permitted uses identified in the underlying zone.
- INTENSITY OF DEVELOPMENT: As specified within the permit conditions.
- PARKING: A shared parking agreement mitigates the reduced parking at Building 3. Overall, there is excess parking for the site (451 spaces where 404 are required).
- AFFORDABLE HOUSING: Agreement from the Housing Commission is required for the use of Building 3 (senior facility).
- ENVIRONMENTAL DOCUMENTS: Mitigation, Monitoring and Reporting Program is required.
- LANDSCAPING: Recreational park area design required to follow Park and Recreation Department procedures and return to CHAPC for input.

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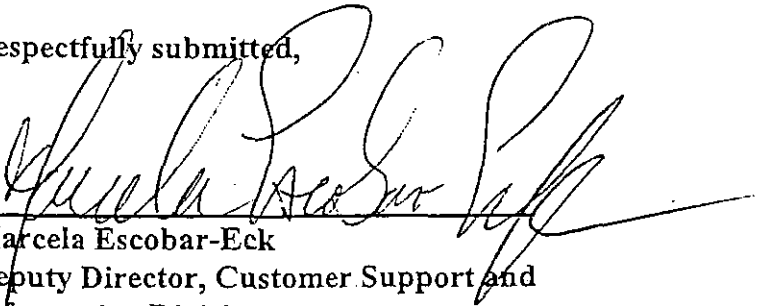
**Conclusion:**

In summary, staff finds the project consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted Mid-City Communities Plan (City Heights neighborhood), the City Heights Redevelopment Plan, the CU-2-3 and CT-2-3 Zones of the Central Urbanized Planned District (with the exception of the deviations requested). Draft conditions of approval have been prepared for the project (Attachment 8) and Findings required to approve the project are included in the draft resolutions (Attachments 7 and 9).

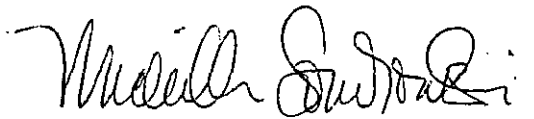
**ALTERNATIVES**

1. **Recommend** to the City Council approval of Planned Development Permit No. 116927, Neighborhood Use Permit No. 116928, Conditional Use Permit No. 116929, Site Development Permit No. 228858, and Easement Vacation No. 116930, with modifications.
2. **Recommend** to the City Council *denial* of Planned Development Permit No. 116927, Neighborhood Use Permit No. 116928, Conditional Use Permit No. 116929, Site Development Permit No. 228858, and Easement Vacation No. 116930, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Marcela Escobar-Eck  
Deputy Director, Customer Support and  
Information Division  
Development Services Department



Michelle Sokolowski, Project Manager  
Customer Support and  
Information Division  
Development Services Department

ESCOBAR-ECK/MAS

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Easement Vacation B Sheets
7. Draft Easement Vacation Resolution
8. Draft Permit and Conditions
9. Draft Permit Findings and Resolution

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10. City Heights Area Planning Committee Recommendation
11. City Heights Redevelopment Project Area Committee Recommendation
12. Ownership Information
13. Project Chronology
14. SB 1818, information regarding current applicability of the State of California's Density Bonus Law, effective January 1, 2005

## Internet Links -- Referenced Attachments

15. City Heights neighborhood of the Mid-City Communities Plan -  
<http://www.sandiego.gov/planning/pdf/commplans/midcity/mccpfv.pdf>
16. Disposition and Development Agreement and Associated Actions for the City Heights Square Office and Retail Project; Report to the Redevelopment Agency and City Council; Report No. RA-05-10/CMR 05-094; May 3, 2005 Docket Date.  
[http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW\\_OBJECTID=09001451800b7b0c](http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800b7b0c)
17. Disposition and Development Agreement and Associated Actions for the City Heights Square Senior Housing Project; Report to the Redevelopment Agency and City Council; Report No. RA-05-11/CMR-05-095; May 3, 2005 Docket Date.  
[http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW\\_OBJECTID=09001451800b7a8d](http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800b7a8d)





## THE CITY OF SAN DIEGO

**REPORT TO THE PLANNING COMMISSION**

**DATE ISSUED:** April 14, 2006 **REPORT NO.** PC-06-158

**ATTENTION:** Planning Commission, Agenda of April 20, 2006

**SUBJECT:** CITY HEIGHTS SQUARE AMENDMENT – PROJECT NO. 95232.  
PROCESS FOUR

**REFERENCE:** Report to Planning Commission No. PC-05-201 (Attachment 11)

**OWNERS/  
APPLICANTS:** 1. San Diego Revitalization Corporation, a California Non-Profit Public  
Benefit Corporation (Attachment 12)  
2. City of San Diego Redevelopment Agency

**SUMMARY**

**Issues:** Should the Planning Commission approve an Amendment to a previously-approved Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit, and Site Development Permit to allow minor deviations from the development regulations in order to accommodate the proposed mixed-use development on the general block bounded by Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue?

**Staff Recommendation:**

1. **Certify** Addendum to Mitigated Negative Declaration No. 40960 (for Project No. 95232); and
2. **Approve** Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102 (An Amendment to Planned Development Permit No. 116927, Neighborhood Use Permit No. 116928, Conditional Use Permit No. 116929, and Site Development Permit No. 228858).

**Community Planning Group Recommendation:** At their April 3, 2006, meeting the City Heights Area Planning Committee (CHAPC) voted 13-2-1 to recommend approval

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of the proposed project, with recommendations. (Attachment 8)

**Environmental Review:** An Addendum to Mitigated Negative Declaration (MND) No. 40960 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines Section 15164. Based upon a review of the current project, it has been determined that there are no new significant environmental impacts not considered for the previous MND, no substantial changes have occurred with respect to the circumstances under which the project is undertaken, and there is no new information of substantial importance to the project

**Fiscal Impact Statement:** None with this action. Project costs are paid by the applicant through a deposit account.

**Code Enforcement Impact:** None with this action.

**Housing Impact Statement:** According to the Mid-City Communities Plan, the 2.857-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 120 residential dwelling units. Additionally, the applicant is requesting a 21% affordable housing density bonus based on the maximum dwelling units allowed by the CU-2-3 zone in order to allow a total of 151 total housing units. The project would result in the demolition of 5 existing single-family residences, creating a net gain of 146 housing units within the City Heights community.

The project exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside 99% of the proposed units (150 affordable units and 1, two-bedroom manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of Area Median Income (AMI). The affordable units would consist of 75 studio units and 75 one bedroom units and would be affordable in perpetuity.

## **BACKGROUND**

The City Heights Square project site is located between Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue, within the City Heights neighborhood of the Mid-City Communities Plan (Attachment 1). The project site is located within the CU-2-3 and CT-2-3 Zones of the Central Urbanized Planned District, the Transit Overlay Zone, and is designated as a facilities-deficient neighborhood. The CU-2-3 and CT-2-3 Zones are commercial zones which also permit residential development following the RM-3-7 Zone development regulations. The 2.857-acre site is located within the City Heights Redevelopment Area.

The original City Heights Square project (Project No. 40960) was approved by the City Council on their consent agenda on June 28, 2005, after receiving a recommendation of approval from the Planning Commission on June 23, 2005. The original project, a mixed-use development, required the following discretionary actions:

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1. A Planned Development Permit (PDP) to deviate from commercial and residential architectural features;
2. A Neighborhood Use Permit (NUP) for the medical clinic use;
3. A Site Development Permit (SDP) for deviations from applicable development regulations as an additional development incentive to a density bonus for affordable housing, FAR and for a mixed-use project in a facility deficient neighborhood;
4. A Conditional Use Permit (CUP) for the proposed senior housing;
5. An Easement Vacation for the vacation of the existing water, sewer and general utility easements.

The original City Heights Square project was a Process 5 level decision due to the inclusion of an Easement Abandonment, which has already occurred and is not within this scope of this Amendment. Therefore, the decision level for this Amendment is a Process 4.

As indicated above, the original approval included four discretionary permits (PDP, NUP, SDP, CUP) which were encapsulated within one permit document. Although only the Planned Development Permit (which covered the deviations from the development regulations for the site) technically requires an amendment for this current request, due to the nature of the permit document an amendment to all actions is required.

The basics of the City Heights Square project are contained within the original Report to the Planning Commission No. 05-201 and will not be repeated within this report to be more efficient.

Due to the length of that report and the duplicative nature of the attachments within that report and this report, only relevant pages have been included (Attachment 11). This Amendment is being requested by the applicant so the project will be consistent with the final plans for the Senior Residential Facility – Building 3 that required revisions to the original Exhibit “A,” approval due to recent changes in the Building Code and the extra requirements of the California Tax Credit Allocation Committee (TCAC) for their portion of the subsidy for the very-low-income senior housing.

No deviations to the other uses or structures within this broad project are being requested with this action.

## **DISCUSSION**

### **Project Description:**

The proposed amendment includes changes to the permitted deviations as described in the table below. The reasons for these deviation requests are also contained within this table. Staff

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supports the requested deviations for the reasons specified.

NO.	DEVIATION APPROVED WITH ORIGINAL PERMIT (Project No. 40960)	DEVIATION REQUESTED WITH AMENDMENT (Project No. 95232)	REASON FOR CHANGE
1.	A maximum structure height of 87'-2" where 50'-0" is the maximum permitted (although not specified, this was for the tower in Building 1)	A maximum structure height of 70'-0" where 50'-0" is the maximum permitted for Building 3 (the plans originally showed height of 61'-2" for Building 3)	The deviations for height of Building 3 were the result of changes to Title 24 and to requirements of the California Tax Credit Allocation Committee (TCAC) for their portion of the subsidy for the very-low income senior housing. The requirements include a larger high efficiency mechanical system for each unit and a larger mechanical enclosure. The high efficiency mechanical system for each unit results in a 23.5" height increase to the low parapet (from 53'-6" to 55'-6"). The approved height of the mechanical enclosure is 61'-2". The proposed mechanical enclosure is 7'-0", a difference of 8'-10". 23-1/2" inches of this difference are due to the increase noted above. The rest is due to the high-efficiency cooling tower required to exceed the new Title-24 energy requirements.
2.	A 2'-6" side yard setback for Building 3 where up to 10 feet is required	A 2'-3" side yard setback for Building 3 where up to 10 feet is required	The size of side yard set back deviation has been reduced from 2'-6" to 2'-3". The 3-inch difference is due to a structural design change in the width of the concrete shear wall, from the approved 15-inch wall to the proposed 18-inch wall.
3.	A 15'-0" street side yard setback along 43 <sup>rd</sup> Street for Building 1 where a maximum of 10 feet is required for 30 percent of the street side yard	No change	N/A
4.	A 6'-8" rear yard setback for Building 2 where up to 10 feet is required	No change	N/A
5.	A deviation from the transparency requirements where 50 percent of the building wall between 3 feet and 10 feet above grade for	No change	N/A

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NO.	DEVIATION APPROVED WITH ORIGINAL PERMIT (Project No. 40960)	DEVIATION REQUESTED WITH AMENDMENT (Project No. 95232)	REASON FOR CHANGE
	Building 3 shall be transparent into a commercial or residential use		
6.	A deviation from the open space requirement where 750 square feet of open space is required per dwelling unit for Building 3	No change	N/A
7.	A floor area ratio of 1.75 where 1.50 is the maximum permitted for Buildings 1, 2 and 3, combined	A floor area ratio of 1.78 where 1.50 is the maximum permitted for Buildings 1, 2 and 3, combined	The .03 increase in floor area ratio (from 1.75 to 1.78) is due to changes in the TCAC low-income housing tax credit (LIHTC) program. The revised program now requires all 1-bedroom units to have a minimum interior floor area of 500 square feet (sf). TCAC's new regulations do not allow any part of the exterior walls or common walls to be used in calculating the 500 sf. minimum interior floor area, which was the basis for calculating the floor area ratio for the original PDP.
8.	A reduction of the required number of parking spaces (79 spaces provided where 110 spaces are required) for Building 3	A reduction of the required number of parking spaces (78 spaces provided where 110 spaces are required) for Building 3	The parking for Building 3 has been reduced by one space, from 79 spaces to 78 where 110 are required. The 32 additional required parking spaces are provided in Building 1 via the shared parking agreement. (Previously, San Diego Revitalization Corporation and Senior Community Centers agreed to a Shared Parking Agreement to accommodate the provision in Building 1 of the additional 31 required parking spaces for Building 3. At their existing facility, Senior Community Centers has experienced difficulties evacuating seniors in emergency situations when the power goes out. They have requested a generator be added to the design. The loss of the one on-site space is due to the addition of this generator.)
9.	A deviation from the off-street loading requirement for Building 2 to one space, where two spaces are required	No change	N/A
10.	Not within original permit	A reduction in the planter size from the required 40 sf to +/-22	The size of the interior courtyard was reduced in order to meet the new requirements of the TCAC

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NO.	DEVIATION APPROVED WITH ORIGINAL PERMIT (Project No. 40960)	DEVIATION REQUESTED WITH AMENDMENT (Project No. 95232)	REASON FOR CHANGE
		sf in the interior courtyard of Building 3	for larger 1-bedroom units in their low-income tax credit program. The courtyard is the largest assembly space in the building and such large planters would take up space necessary for proposed senior activities such as exercise classes, arts and crafts, concerts and mixers. Eight 40-sf planters would be out of scale with the narrower courtyard. The new trees specified were selected for their ability to grow beyond the required minimum height and spread of 15 feet (without compromising the root zone) when planted in a 22-sf planter.

**Environmental Analysis:**

An Addendum to the Mitigated Negative Declaration (Project No. 95232) was prepared for this project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. Based upon a review of the current project, it was determined that there are no new significant environmental impacts not considered for the previous Mitigated Negative Declaration; no substantial changes have occurred with respect to the circumstances under which the project is undertaken; and there is no new information of substantial importance to the project. Therefore, in accordance with Section 15164 of the State CEQA guidelines, an Addendum was prepared. All mitigation measures included in the previous Mitigated Negative Declaration No. 40960 have been incorporated into this Addendum.

**Project-Related Issues:****Community Input**

Although the City Heights Redevelopment Project Area Committee (PAC – the communication link between the Redevelopment Agency and the community) provided extensive comments on the original City Heights Square project (Project No. 40960), they did not express recommendations on the proposed minor modifications captured in this Amendment.

The City Heights Area Planning Committee (CHAPC - the recognized community planning group) reviewed the proposed Amendment at their April 3, 2006, meeting and voted 13-2-1 to recommend approval of the proposed project with the following comments (Attachment 8):

1. Recommend approval of the requested changes in the size of units.

- Response: Comment noted.
2. Recommend approval of the shrinkage of the courtyard.

Response: Comment noted; captured under landscape deviation.

3. Recommend increasing the FAR to 1.75 for the project.

Response: Comment noted.

4. Recommend increasing the building and cooling tower heights.

Response: Comment noted.

5. Recommend approval of the reduced number of trees.

Response: Comment noted; captured under landscape deviation.

6. Recommend the use of evergreen trees in the landscape plan.

Response: Comment noted; captured under landscape deviation.

7. Recommend that no project funds be used to alter the intersection of Euclid Avenue and University Avenue; that the mitigation funds be used to improve Transportation Demand Management and to improve Fire and Life Services infrastructure in City Heights.

Response: This fairshare contribution requirement is an identified traffic impact within the traffic impact analysis prepared for the original project and in the approved Mitigated Negative Declaration. Because the proposed minor design deviations for Building 3 do not increase the amount of units or cause other significant impacts, an Addendum to the Mitigated Negative Declaration was prepared and distributed. The use of these required mitigation funds (the fairshare contribution toward the intersection improvements) for any other purpose would leave an unmitigated significant impact for this traffic issue.

8. Recommend in strong terms against the reduction in window sizes, noting that energy savings can be effected in other, less dangerous ways.

Response: The applicant indicates the windows of Building 3 are slightly reduced in size because of the lender's (the California Tax Credit Allocation Committee) requirement that all units be 15% more efficient than the new Title 24 standards. In order to meet transparency requirements, more glass was added to the southwest stair tower and to the entry tower. In fact, there is slight increase in the

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overall net transparency of the building (from 564 square feet approved to 603 square feet proposed).

The only communications regarding this project have been statements indicating the perception that the mitigation requirement which specifies payment of a fairshare contribution to improvements required at the intersection of University and Euclid Avenues is "irrelevant" and request the contribution be shifted to the improvements of fire and life safety services, as also recommended by the City Heights Area Planning Committee (Attachment 12).

As indicated above, this fairshare contribution requirement is an identified traffic impact within the traffic impact analysis prepared for the original project, and that the draft Mitigated Negative Declaration was originally circulated in March 2005. Mr. John Stump provided comments regarding this issue, which were responded to in the Final Mitigated Negative Declaration distributed in April 2005. Because the proposed minor design deviations for Building 3 do not increase the amount of units or cause other significant impacts, an Addendum to the Mitigated Negative Declaration was prepared and distributed. The use of these required mitigation funds (the fairshare contribution toward the intersection improvements) for any other purpose would leave an unmitigated significant impact for this traffic issue.

#### Redevelopment Project

As indicated throughout this report, the proposed project is a redevelopment project. The project has an accelerated timeframe due to the use of redevelopment funds from the State and resulting project phasing.

#### Critical Project Features to Consider During Substantial Conformance Review

- LAND USE: The retail/office component of the property follows the permitted uses identified in the underlying zone.
- INTENSITY OF DEVELOPMENT: As specified within the permit conditions.
- PARKING: A shared parking agreement mitigates the reduced parking at Building 3. Overall, there is excess parking for the site (450 spaces where 404 are required).
- AFFORDABLE HOUSING: Agreement from the Housing Commission is required for the use of Building 3 (senior facility).
- ENVIRONMENTAL DOCUMENTS: Mitigation, Monitoring and Reporting Program is required.
- LANDSCAPING: Recreational park area design required to follow Park and Recreation Department procedures and return to CHAPC for input.

#### Conclusion:

In summary, staff finds the project consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted Mid-City Communities Plan (City Heights neighborhood), the City Heights Redevelopment Plan, the CU-2-3 and CT-2-3



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Zones of the Central Urbanized Planned District (with the exception of the deviations requested). Draft conditions of approval have been prepared for the project (Attachment 6) and Findings required to approve the project are included in the draft resolutions (Attachment 7).

### ALTERNATIVES

1. **Approve** Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102 (An Amendment to Planned Development Permit No. 116927, Neighborhood Use Permit No. 116928, Conditional Use Permit No. 116929, and Site Development Permit No. 228858), with modifications.
2. **Deny** Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102 (An Amendment to Planned Development Permit No. 116927, Neighborhood Use Permit No. 116928, Conditional Use Permit No. 116929, and Site Development Permit No. 228858), if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



**Jeffrey D. Ströhminger**  
Acting Deputy Director, Customer Support  
and Information Division  
Development Services Department



**Michelle Sokolowski, Project Manager**  
Customer Support and  
Information Division  
Development Services Department

STROHMINGER/MAS

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Plans
6. Draft Permit and Conditions
7. Draft Permit Findings and Resolution
8. City Heights Area Planning Committee Recommendation
9. Ownership Information
10. Project Chronology
11. Report to Planning Commission No. 05-201 (not available via internet due to original

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- posting error)
12. Communications received regarding proposed project

Internet Links – Referenced Attachments in Report to Planning Commission No. 05-201

13. SB 1818, information regarding current applicability of the State of California's Density Bonus Law, effective January 1, 2005  
[http://info.sen.ca.gov/pub/03-04/bill/sen/sb\\_1801-1850/sb\\_1818\\_bill\\_20040930\\_chaptered.pdf](http://info.sen.ca.gov/pub/03-04/bill/sen/sb_1801-1850/sb_1818_bill_20040930_chaptered.pdf)
14. City Heights neighborhood of the Mid-City Communities Plan -  
<http://www.sandiego.gov/planning/pdf/commplans/midcity/mccpfv.pdf>
15. Disposition and Development Agreement and Associated Actions for the City Heights Square Office and Retail Project; Report to the Redevelopment Agency and City Council; Report No. RA-05-10/CMR 05-094; May 3, 2005 Docket Date.  
[http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW\\_OBJECTID=09001451800b7b0c](http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800b7b0c)
16. Disposition and Development Agreement and Associated Actions for the City Heights Square Senior Housing Project; Report to the Redevelopment Agency and City Council; Report No. RA-05-11/CMR-05-095; May 3, 2005 Docket Date.  
[http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW\\_OBJECTID=09001451800b7a8d](http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800b7a8d)

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ATTACHMENT 20

THE CITY OF SAN DIEGO

**DATE ISSUED:** October 2, 2007 **REPORT NO.** PC 07-126

**ATTENTION:** Planning Commission  
Agenda of October 18, 2007

**SUBJECT:** **General/Community Plan Amendment Initiation – 4300 University Ave. -- Project No. 134760:** Initiation of an amendment to the Progress Guide and General Plan and the Mid-City Communities Plan to redesignate a 2.75-acre site from Commercial and Mixed-Use (2.62 acres) with a maximum of 43 du/acre and Residential (0.13 acre) with 21-25 du/acre to Commercial and Mixed-Use with 73 du/acre.

**OWNER/**  
**APPLICANT:** City Heights Realty, LLC; City of San Diego Redevelopment Agency; City Heights Square, L.P. Chelsea Investment Corporation; and La Maestra Community Health Centers

**REFERENCE:** Planning Commission Report No. PC-05-201 (City Heights Square Planned Development Permit).

**SUMMARY:**

Issue – Should the Planning Commission INITIATE an amendment to the Progress Guide and General Plan and the Mid-City Communities pursuant to Municipal Code Section 122.0103? The proposed amendment would increase the designated density of a 2.75-acre site from 29 dwelling units per acre (with a mixed-use bonus of 43 dwelling units per acre) to 73 dwelling units per acre.

Staff Recommendation – INITIATE the plan amendment process.

Community Planning Group Recommendation – The City Heights Area Planning Committee voted to approve the general/community plan amendment initiation at their regularly scheduled and noticed meeting on October 1, 2007, by a vote of 14-4-0, the Chair not voting.

Environmental Impact – If initiated, the proposed plan amendment and future discretionary actions would be subject to environmental review.

Fiscal Impact – Processing costs would be paid by the applicant.



City Planning and Community Investment

202 C Street, MS 4A • San Diego, CA 92101-3864  
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Housing Impact Statement – The Mid-City Communities Plan designates the 2.75-acre site as Commercial and Mixed-Use (2.62 acres) with a density of 29 dwelling units per acre and an available mixed-use bonus of 43 dwelling units per acre and Residential (0.13 acre) with a density of 21 to 25 dwelling units per acre (Attachment 1). Based on the existing designations, and assuming the application of the mixed-use bonus, 113 dwelling units would be allowed on the Commercial and Mixed-Use portion of the property and three units on the Residential portion, for a total of 116 units on the entire subject property. The sum of the permissible density has been absorbed by a senior housing project developed on a section of the site. The request to redesignate the subject property entirely to Commercial and Mixed-Use with a density of up to 73 dwelling units per acre would allow 201 dwelling units -- a potential net increase of 85 residential units for the subject property.

**This initiation request does not constitute an endorsement of the proposed project. If initiated, a staff recommendation would be developed once the project has been fully analyzed. Approval of this action would allow staff analysis to proceed.**

### BACKGROUND

The subject property includes approximately 2.75 acres located at 4300 University Avenue between 43rd Street and Fairmount Avenue, on the north side of University Avenue. It is located within the City Heights Redevelopment Project Area and the Mid-City Communities Planning Area (Attachment 2). The subject property is surrounded predominately by commercial uses. Immediately northeast of the subject property are retail commercial uses and residential uses. To the south, there is a six-story office building and 134 town-home units, developed with assistance from the City's Redevelopment Agency. To the west, there is a church as well as residential uses; directly east are primarily commercial uses (Attachment 3).

The subject property is part of City Heights Square, a project site approved by a planned development permit [PDP] in June, 2005. As permitted, City Heights Square included senior housing, a medical clinic, a small recreation area, and a retail and office mixed-use space (Attachment 4). At present, a portion of the subject property is occupied by a fast food drive-through restaurant; there is also the recently completed City Heights Square 151-unit senior housing development and the medical clinic which will begin construction in November. The remaining land, approximately 1.7 acres, approved for retail and office mixed-use space is currently vacant (Attachment 5).

Due to market conditions, the applicant would like to pursue a mixed-use project that replaces the office use with residential, coupled with street-level retail. However, the maximum residential density permitted for City Heights Square has been allocated to the senior housing project. At the time the PDP was approved the owners/developers of City Heights Square did not have additional residential projects planned; the remaining land was entitled for the clinic, recreation, and mixed-use retail and office space. Therefore the density for the senior housing project was achieved by calculating the maximum dwelling units for the entire City Heights Square site (2.86 acres) as well as applying a 21 percent affordable housing density bonus. This effectively maximized the residential density permitted under the existing community plan land

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use designations for the entire City Heights Square project site. For this reason, the applicant is requesting a plan amendment to increase the overall density of the original site, exclusive of the recreation area (Attachment 1). The proposed plan amendment would change the land use to Commercial and Mixed-Use with a permitted residential density up to 73 dwelling units per acre.

Changing the designations and increasing the density to 73 dwelling units per acre for the subject property would allow for 201 units which would be reduced by 116 existing senior units (the maximum units allowed by designation exclusive of the affordable housing density bonus), and ultimately result in 85 additional residential units that could be developed on the site. If initiated, an analysis of existing residential densities in relation to the proposed land use amendment and the potential impact to surrounding schools and parks would be analyzed as part of the general/community plan amendment process.

The site is currently zoned CU-2-3, which allows for commercial, mixed-use and multi-family residential development. If initiated, the proposed general/community plan amendment would be reviewed in conjunction with a request for a rezone and other required discretionary actions to be determined by the Development Services Department.

The City Heights Area Community Planning Committee voted 14-4-0 in favor of the general/community plan amendment initiation. Those opposed to the initiation expressed concerns regarding the land use change and the applicant's proposed project. The discussion included the applicant's intention to incorporate the community's input, the need for improved design, maintaining street-level retail, rental units versus for-sale units, and the safety of a high density residential use along a heavily trafficked street such as University Avenue.

#### **Other General/Community Plan Amendments in Process**

Currently there are no other general/community plan amendments in process within the Mid-City Communities Planning Area nor have there been any recent adopted amendments with the last year.

#### **DISCUSSION**

Before a general/community plan amendment can be initiated, Section 122.0104 of the Municipal Code requires that one of three "initial criteria" must be met or that all "supplemental criteria" be met as specified in the code.

The City Planning & Community Investment Department does not believe that any of the following initial criteria can be met:

**(1) The amendment is appropriate due to a mapping or textual error or omission made when the original land use plan or local coastal program was adopted or during subsequent amendments;**

**(2) Denial of initiation would jeopardize the public health, safety or general welfare;**

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**(3) The amendment is appropriate due to a material change in circumstances since the adoption of a land use plan or local coastal program whereby denial of initiation would result in a hardship to the applicant by denying any reasonable use of the subject property.**

However, the City Planning & Community Investment Department finds that all the supplemental criteria can be met:

**(1) The proposed land use plan amendment is consistent with the goals and objectives of the General Plan and the Mid-City Communities Plan.**

The proposed land use amendment would fulfill the goals articulated in the General Plan pertaining to housing opportunities. The General Plan states that a steady level of housing starts should be maintained to assure continuing availability of all housing types and prices, and that the production of housing for first-time homebuyers should be encouraged. The proposed amendment would increase the residential density permitted for the site and thereby boost potential housing units and the subsequent opportunities for rental and/or ownership.

The proposed land use amendment would also satisfy the goals stated in the Residential Element of the Mid-City Communities Plan to concentrate new higher-density development along transportation corridors and enhance the quality of the local neighborhoods. The goals would be attained by allowing an increase in the potential dwelling units for the site, encouraging residential/retail mixed-use development along the commercial strip of University Avenue, and promoting new housing development in a variety of types and sizes to meet the needs of existing and future residents as well as expand homeownership opportunities.

The Commercial Element of the community plan further recommends that the area bounded by El Cajon Boulevard and University Avenue at Fairmount Avenue and 43<sup>rd</sup> Street be encouraged as a center of ethnically-oriented commercial activities with facilities such as restaurants and retail. The proposed Commercial and Mixed-Use designation would allow an opportunity for these types of uses to locate in this area. The land use designation requested by the applicant is the same as the existing Commercial and Mixed-Use designation located north of Fairmount Avenue along El Cajon Boulevard which allows a residential density of 73 dwelling units per acre.

The Economic Development Element of the community plan also identifies the area along University Avenue and Fairmount Avenue as a "smaller urban node" recommended for higher-density mixed-use development. The application of a Commercial and Mixed-Use designation with a higher permitted density would increase the vitality and combination of uses and help create a place where community members could interact.

**(2) The proposed land use plan amendment appears to offer a public benefit to the community or City.**

The proposed land use amendment would allow for the creation of additional housing for existing and future residents and benefit the community by providing safe, new housing stock.

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The site is also located within the City Heights Redevelopment Project Area and would promote redevelopment and revitalization efforts in the surrounding area. Additionally, the proposed land use amendment would serve to provide some replacement housing within the City Heights area that was lost due to the siting and development of four new elementary schools in the community. As result of the construction of these new schools, a total of 637 housing units were removed from the existing City Heights housing inventory.

**(3) Public services are available or are planned to be available to serve the proposed change in density or intensity of use.**

Library, fire, and police services are currently in place and are provided by the City of San Diego. Police services in Mid-City are provided by the Mid-City Police Division and fire protection services would be provided by Fire Station 26, located approximately 2.26 miles from the site. Any development associated with the proposed land use amendment would have access to existing public water and sewer services located within the area.

If the amendment is initiated, impacts to public services and facilities would need to be analyzed to ensure that facility needs generated by the proposal would be addressed. In addition, a concurrent amendment to the Mid-City Public Facilities Financing Plan may be included.

**(4) City staff is available to process the proposed land use plan amendment without any work being deferred on General Fund supported programs or ongoing plan updates.**

Staff is available to process this amendment request without delaying General Fund programs or ongoing plan updates, as the City Planning & Community Investment Department's work program includes staff time for non-general fund development projects. However, delays in processing the plan amendment could occur based on staff levels and workload. The costs associated with processing this amendment, should it be approved, would be paid for by the applicant.

**CONCLUSION**

City Planning & Community Investment Department staff recommends that the amendment process be initiated to study the issues and impacts related to the proposed land use change from Commercial and Mixed-Use and Residential to Commercial and Mixed-Use (44 to 73 du/ac).

The following issues have been identified with the initiation request. If initiated, these issues, as well as others that may be identified through the course of the amendment process, will be analyzed and evaluated through the general/community plan amendment review process.

- Consistency between the proposed general/community plan amendment and the City's General Plan and Strategic Framework Element and Transit-Oriented Development Design Guidelines.

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- The appropriate mix of uses for City Heights Square, including the need for commercial office uses to serve the adjacent residential uses.
- Ensure that ground-level retail uses are provided in areas designated as *Commercial and Mixed-Use*.
- The availability of recreational facilities, public facilities and/or services, in particular parks and public schools.
- The ability of the project to provide additional recreational amenities as part of the development proposal.
- Impacts on community transportation system to determine if any transportation improvements would be necessary.
- The availability of transit to serve the development.
- Compatibility of the density and intensity permitted under the proposed designation with existing and planned surrounding uses.
- The ability of the project to provide housing which meets the needs of the community, including the opportunity for on-site affordable housing.
- Provision of pedestrian amenities and streetscape improvements associated with new residential development.

Although staff believes that the proposed amendment meets the necessary criteria for initiation, staff has not fully reviewed the applicant's current development proposal.

**Therefore, by initiating this General/Community Plan amendment, neither the staff nor Planning Commission are committed to recommend in favor or denial of the proposed amendment.**

Respectfully submitted,



Bernard Turgeon  
Acting Program Manager  
City Planning &  
Community Investment Department



Melissa Tintocalis  
Associate Planner/CDSII  
City Planning &  
Community Investment Department



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Attachments:

1. Existing and Proposed Land Use Designations
2. Mid-City Community Plan Area – City Heights
3. Aerial Map
4. Existing City Heights Square Entitlements
5. Existing Uses at City Heights Square
6. Photograph of Subject Property – 4300 University Ave.
7. Ownership Disclosure Statements (Price Charities, City Heights Square L.P., and La Maestra Family Clinic, Inc.)
8. Letters from Property Owners (City of San Diego's Redevelopment Agency, La Maestra Community Health Centers, and Chelsea Investment Corporation)

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CITY OF SAN DIEGO  
M E M O R A N D U M

RECEIVED

JUN 04 2007

Office of  
Councilmember Toni Atkins

DATE: May 31, 2007

TO: Councilmember Toni Atkins

FROM: William Anderson, FAICP  
Director, City Planning & Community Investment

SUBJECT: Central Urbanized Planned District Ordinance Supplemental Regulations

REFERENCE: April 11, 2007 Memorandum from Councilmember Toni Atkins

This memorandum is in response to your April 11, 2007 Memorandum (see Attachment) regarding the Supplemental Regulations of the Central Urbanized Planned District Ordinance (CUPDO).

The Park and Recreation Department has been working steadily to acquire and develop public park sites in the Mid-City Communities. The City has recently acquired .25 acres to be added to the Normal Heights Community Park (Becerra property), and acquisition of a .36 acre parcel along Central Avenue is pending. The Supplemental Regulations of the CUPDO were not intended to add new neighborhood and community park acreage to the Mid-City Communities. The supplemental regulations required only on-site usable (recreational) open space to be provided as part of private development projects. With the anticipated adoption of the City of San Diego General Plan Update, the Recreation Element will provide new policy direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. My staff and I look forward to working together with the City Council District offices to address this issue. Responses to the questions raised in the April 11, 2007 memo are below:

*Are the Supplemental Development Regulations provisions still in effect?*

1. The Supplemental Development Regulations of the CUPDO have been waived. Municipal Code section 151.0253(a) required projects proposing three or more dwelling units per lot to obtain Site Development Permits and provide 750 square feet of on-site usable open space per unit unless three acres of improved park acreage were added in the Mid-City Community subsequent to the August 4, 1998 adoption of the Mid-City Communities Plan. An additional

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Councilmember Toni Atkins

May 31, 2007

12.26 acres of improved park acreage has been added through joint use agreements with the San Diego Unified School District. The addition of the park acreage caused the requirement for the Site Development Permit and associated required 750 square feet of on-site usable open space per unit to be waived.

*If these provisions are no longer required of new residential and mixed residential-commercial projects, when did the requirement go away? How was the decision made? Who made the decision?*

2. In early 2005, with the anticipated completion of several Proposition MM funded schools with planned joint use agreements in Mid-City and interest from the development community, planning staff requested clarification of the Supplemental Regulations in the CUPDO from the City Attorney's office. The City Attorney's office provided a memo on February 16, 2005, which clarified that joint use agreements with the school district for recreational use areas would satisfy the Municipal Code Section 151.0253(a)(1)(B) requirement for the addition of three acres of improved park acreage. Subsequent to that memo in April of 2006, staff from the City Planning & Community Investment, Park and Recreation, and Development Services departments met to discuss the addition of park acreage in the Mid-City Communities and the supplemental regulations. It was acknowledged at the meeting that the City of San Diego Park and Recreation Department executed joint use agreements with the San Diego Unified School District for the use of 12.26 acres of recreational fields at the following elementary schools: Cherokee Point (2.11 ac.), Herbert Ibarra (2.69 ac.), Florence Joyner (2.1 ac.), Edison (1.2 ac.), Normal Heights (2.52 ac.), and Mary Fay (1.64 ac.). The joint use agreements satisfied the exception clause in Municipal Code Section 151.0253(a)(1)(B) by adding more than three acres of "improved recreational area owned by a governmental entity for which there is a joint use agreement with the City of San Diego for public recreational use." Since that time, staff from the Development Services Department has waived the requirement for a Site Development Permit for projects proposing three or more units within the facilities deficient neighborhoods identified on Diagram 151-02B of the CUPDO, and has not required the additional open space per the supplemental regulations.

*Please explain how the original threshold was set and, if applicable, list the projects/recreation facilities which allowed the City to reach/surpass this threshold?*

3. The CUPDO was established as part of the comprehensive planning process undertaken with the Mid-City Community Plan Update. The plan update process identified a deficiency of park acreage in the Mid-City Communities. According to the Draft Program Environmental Impact Report for the General Plan Update, there is a total of 167.53 acres of usable population-based park acreage and a park acreage deficit of 242.17 acres for the Mid-City Communities. This deficiency is based on the existing General Plan standard of 2.8 acres per 1,000 residents. Population numbers were obtained from the San Diego Association of Governments (SANDAG) 2006 current population estimate. In order to avoid exacerbating the existing park acreage deficiency, the Supplemental Regulations of the CUPDO were adopted to allow for development to occur, but also to require that on-site recreational facilities be included as part of all new development projects proposing three or more

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Councilmember Toni Atkins  
May 31, 2007

residential units. The supplemental regulations were intended to be a temporary measure to provide time for additional park acreage to be added to the community while allowing for reasonable development.

As stated above, since the adoption of the Mid-City Community Plan, 12.26 acres of improved playfields have been made available at six new schools for park and recreational uses through joint use agreements with the San Diego Unified School District. This additional park acreage has surpassed the threshold set in the Planned District Ordinance for the addition of three acres of improved park land in the Mid-City Communities.

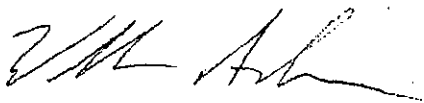
*What process can the City undertake to amend the threshold and/or reconsider these Supplemental Development Regulations?*

4. A City Council Office requesting an amendment to the threshold would send the request to amend the Planned District Ordinance to the Mayor's Office for consideration. Once the request is received, it would be prioritized by the Mayor's Office in the Land Development Code Update Work Program. Given current staffing shortages, items that are not of citywide importance or of an urgent need are not prioritized as part of the work program at this time.

*If the provision has been satisfied, will the City Council be required to amend the CUPDO?*

5. In the February 16, 2005 memo, the City Attorney's office stated that "there is no legal requirement to remove the superfluous Municipal Code language as long as City staff properly applies the exception and does not require a Site Development Permit." Therefore, at that time no further action was needed to amend the CUPDO to remove the language in order to waive the Supplemental Development Regulations. The memo stated that maintaining the Supplemental Regulations in the CUPDO would enable the City to reinstate the regulations if the joint use agreements should expire and not be renewed.

I hope this memorandum is responsive to your questions. If you have any questions, please contact me at (619) 236-6361 or Melissa Devine, Associate Planner, at (619) 235-5201.



William Anderson, FAICP  
Director, City Planning & Community Investment

WA/MDC/ah

Attachment: April 11, 2007 Memorandum from Councilmember Toni Atkins

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Councilmember Toni Atkins  
May 31, 2007

cc: Council President Pro Tem Anthony Young  
Councilmember Jim Madaffer  
Stacey LoMedico, Director, Park and Recreation  
Marcela Escobar-Eck, Director, Development Services  
Janice Weinrick, Deputy Executive Director, San Diego Redevelopment Agency  
Deborah Sharpe, Project Officer II, Park and Recreation  
Mary Wright, Program Manager, City Planning & Community Investment  
Dan Joyce, Senior Planner, Development Services  
Marlon Pangilinan, Senior Planner, City Planning & Community Investment  
Bob Kennedy, Project Manager, San Diego Redevelopment Agency  
Melissa Devine, Associate Planner, City Planning & Community Investment  
Karen Bucey, Chair, City Heights Redevelopment Project Area Committee  
Stefanie Harris, Chair, City Heights Area Planning Committee



City of San Diego

**COUNCILMEMBER TONI ATKINS  
COUNCIL DISTRICT THREE****MEMORANDUM**

DATE: April 11, 2007  
TO: Mayor Jerry Sanders  
FROM: Councilmember Toni Atkins  
SUBJECT: Central Urbanized PDO: Supplemental Development Regulations – Park Acreage

The Central Urbanized Planned District Ordinance (PDO) Supplemental Development Regulations in Municipal Code §151.0253(a)(1) addresses residential and mixed commercial-residential development in facility-deficient neighborhoods. The Code states:

*A Site Development Permit decided in accordance with Process 3 is required for residential and mixed residential-commercial projects within the facility deficient neighborhood that propose the addition of three or more dwelling units per lot, unless:*

- (1) *At least three acres of the following improved park acreage in the Mid-City Communities Plan have been added since August 4, 1998:*
  - (A) *City owned improved parkland, except the initial 4 acres of 39th Street Park, the initial 6.9 acres of Park De La Cruz, and the initial 4 acres of Teraña Park; or*
  - (B) *Improved recreational area owned by a governmental entity for which there is a joint use agreement with the City of San Diego for public recreational use; or*
  - (C) *Other improved park or recreational use area that is open to the public at no cost.*
- (2) *The proposed development is within 600 feet of a public park, a public school with a joint use agreement with the City of San Diego for public recreational use, or a school that is open during non-school hours for public recreational use.*

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Page 2.  
 April 11, 2007  
 Central Urbanized PDO

(3) *When residential and mixed residential-commercial projects are required to obtain a Site Development Permit the proposed development shall:*

(A) *provide a minimum of 750 square feet of on-site usable (recreational) open space area per dwelling unit with a minimum of 10 feet in each dimension, within a non-vehicular area. The area will be landscaped and may also include hardscape and recreational facilities; and*

(B) *In the absence of a street light within 150 feet of the property, adequate neighborhood serving security lighting consistent with Land Development Code Section 142.0740 shall be provided on-site.*

It has been called to my attention that these provisions are no longer in effect. Given this information, I respectfully request that the following questions be addressed.

1. Are these Supplemental Development Regulations provisions still in effect?
2. If these provisions are no longer required of new residential and mixed residential-commercial projects, when did the requirement go away? How was the decision made? Who made the decision?
3. Please explain how the original threshold was set and if applicable, list the projects/recreational facilities which allowed the City to reach/surpass this threshold.
4. The Mid-City Neighborhood is considered extremely park deficient. The elimination of these development regulations sends a signal that there are adequate recreational facilities in the area. What process can the City undertake to amend the threshold and/or reconsider these Supplemental Development Regulations?
5. If the provision has been satisfied, will the City Council be required to amend the Central Urbanized PDO?

This is an ongoing concern for the City Heights Redevelopment Project Area Committee (CHAPC) and the City Heights Area Planning Committee (CHAPC)—two critical City Council advisory bodies. I thank you for your prompt attention to this matter.

TA:pi

cc: Council President Pro Tem Anthony Young  
 Councilmember Jim Madaffer  
 Jim Waring, Deputy Chief, Land Use and Economic Development  
 Bill Anderson, Director, City Planning and Community Investment  
 Stacey LoMedico, Director, Park and Recreation Department  
 Janice Weinrick, Deputy Executive Director, San Diego Redevelopment Agency  
 Bob Kennedy, Project Manager, San Diego Redevelopment Agency  
 Melissa Devine, Associate Planner, City Planning and Community Investment  
 Karen Bucey, Chair, City Heights Redevelopment Project Area Committee (CHPAC)  
 Stefanie Harris, Chair, City Heights Area Planning Committee (CHAPC)

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Councilmember Toni Atkins

May 31, 2007

residential units. The supplemental regulations were intended to be a temporary measure to provide time for additional park acreage to be added to the community while allowing for reasonable development.

As stated above, since the adoption of the Mid-City Community Plan, 12.26 acres of improved playfields have been made available at six new schools for park and recreational uses through joint use agreements with the San Diego Unified School District. This additional park acreage has surpassed the threshold set in the Planned District Ordinance for the addition of three acres of improved park land in the Mid-City Communities.

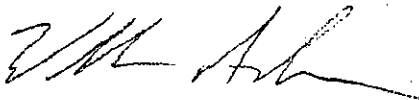
*What process can the City undertake to amend the threshold and/or reconsider these Supplemental Development Regulations?*

4. A City Council Office requesting an amendment to the threshold would send the request to amend the Planned District Ordinance to the Mayor's Office for consideration. Once the request is received, it would be prioritized by the Mayor's Office in the Land Development Code Update Work Program. Given current staffing shortages, items that are not of citywide importance or of an urgent need are not prioritized as part of the work program at this time.

*If the provision has been satisfied, will the City Council be required to amend the CUPDO?*

5. In the February 16, 2005 memo, the City Attorney's office stated that "there is no legal requirement to remove the superfluous Municipal Code language as long as City staff properly applies the exception and does not require a Site Development Permit." Therefore, at that time no further action was needed to amend the CUPDO to remove the language in order to waive the Supplemental Development Regulations. The memo stated that maintaining the Supplemental Regulations in the CUPDO would enable the City to reinstate the regulations if the joint use agreements should expire and not be renewed.

I hope this memorandum is responsive to your questions. If you have any questions, please contact me at (619) 236-6361 or Melissa Devine, Associate Planner, at (619) 235-5201.



William Anderson, FAICP  
Director, City Planning & Community Investment

WA/MDC/ah

Attachment: April 11, 2007 Memorandum from Councilmember Toni Atkins



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Councilmember Toni Atkins

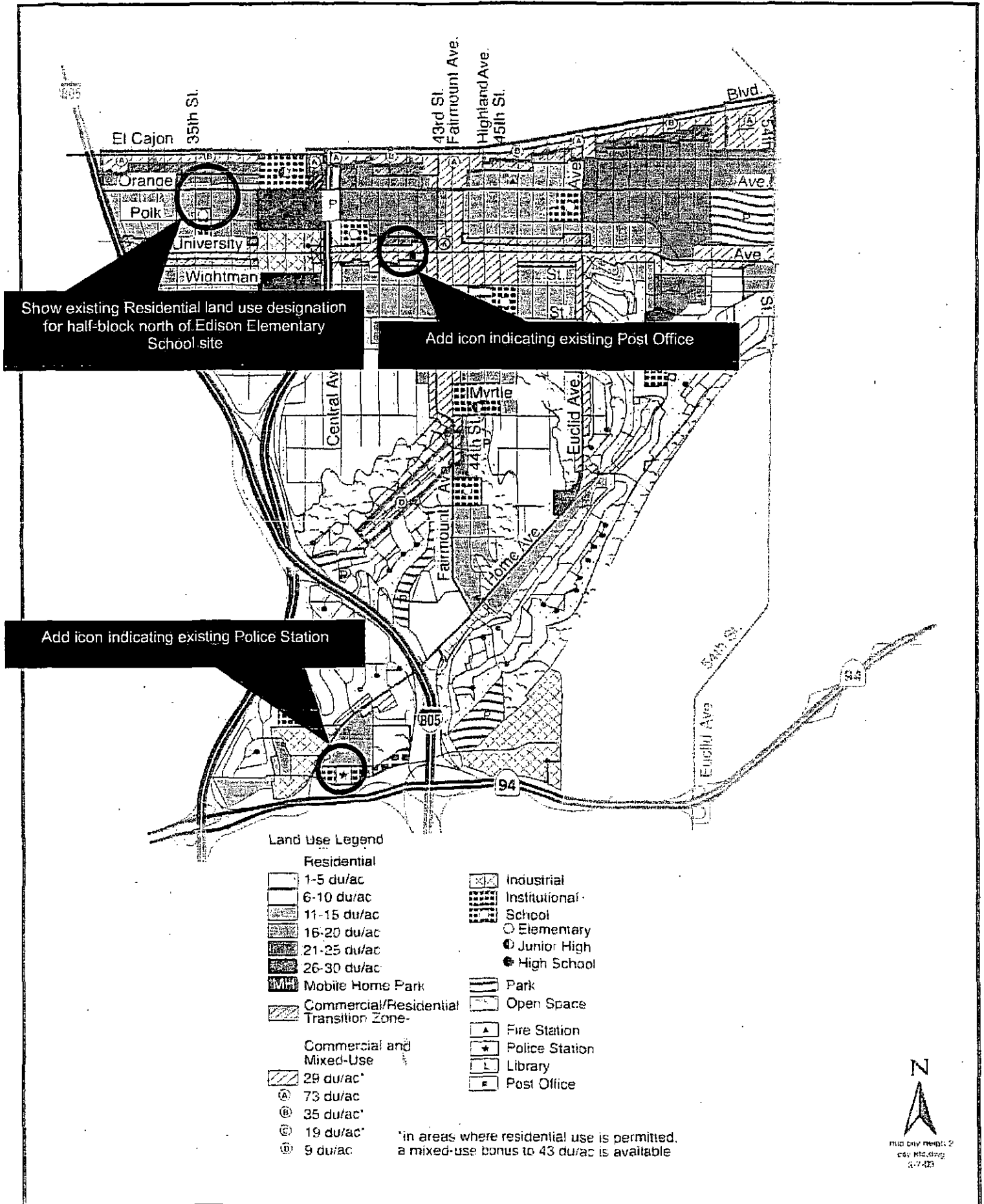
May 31, 2007

cc: Council President Pro Tem Anthony Young  
Councilmember Jim Madaffer  
Stacey LoMedico, Director, Park and Recreation  
Marcela Escobar-Eck, Director, Development Services  
Janice Weinrick, Deputy Executive Director, San Diego Redevelopment Agency  
Deborah Sharpe, Project Officer II, Park and Recreation  
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Karen Bucey, Chair, City Heights Redevelopment Project Area Committee  
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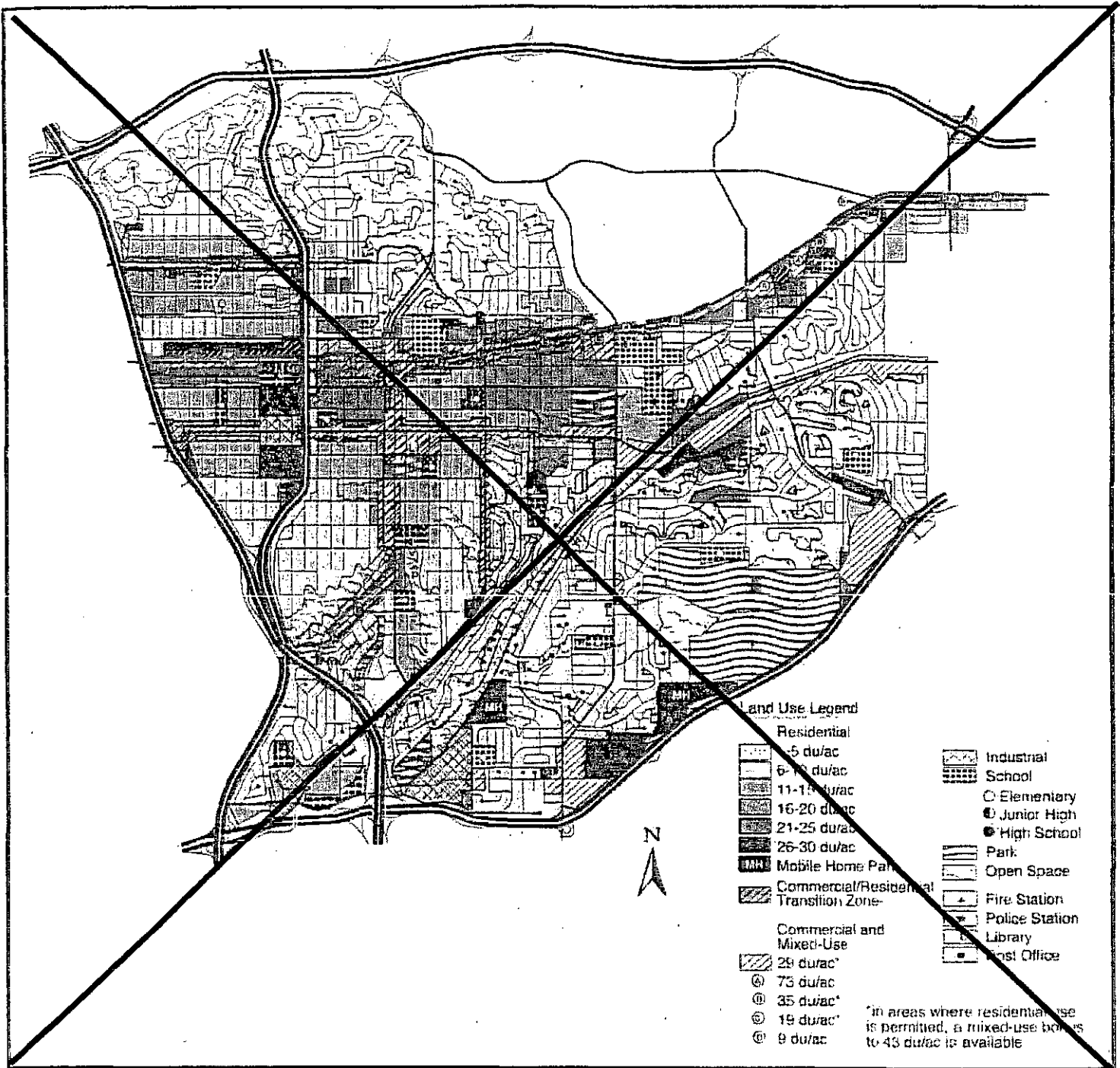
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# City Heights Community Plan Map



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## Mid-City Communities Plan Map



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## Mid-City Communities Plan Map

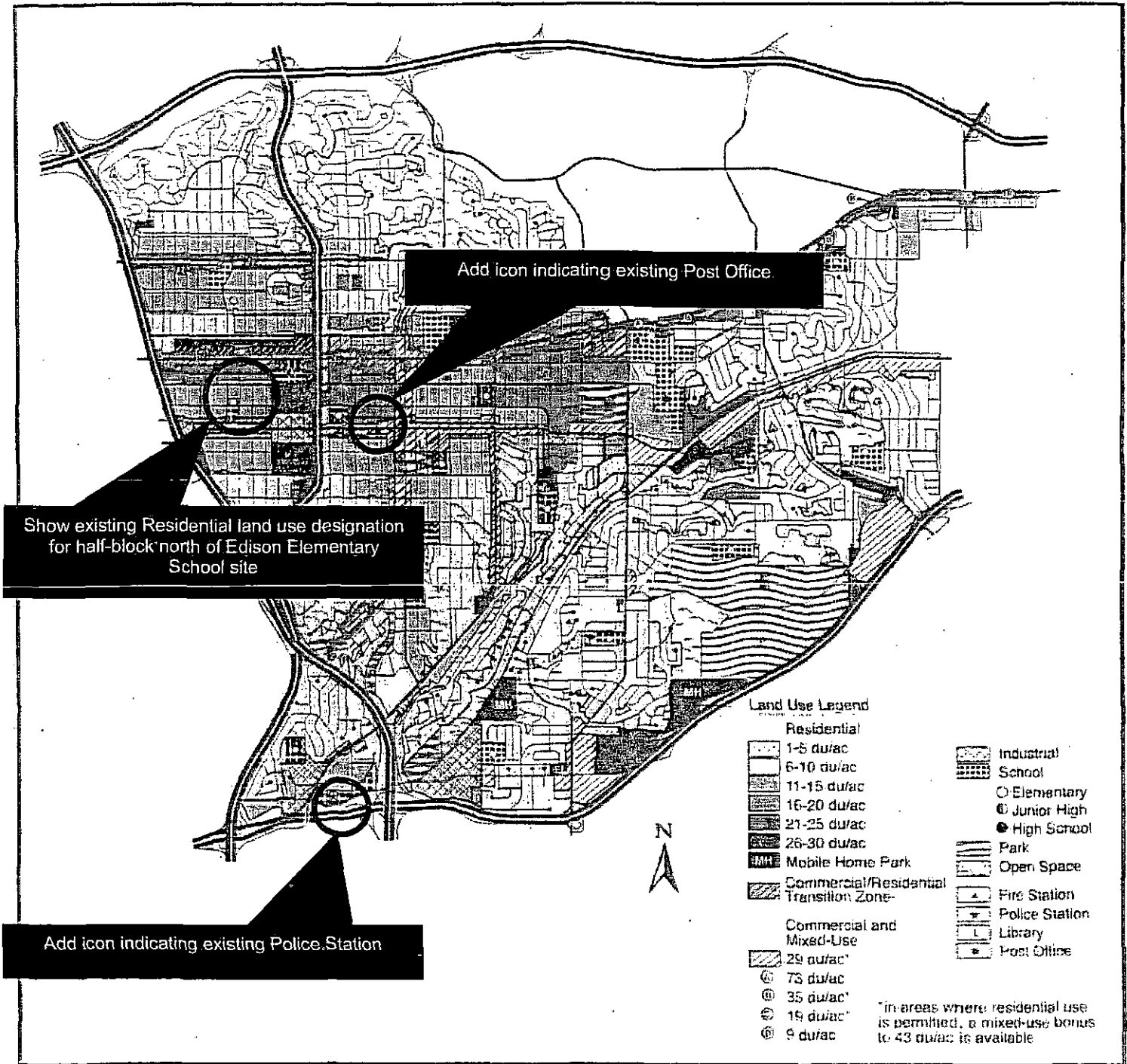


Figure 11  
City Heights Community Plan Map

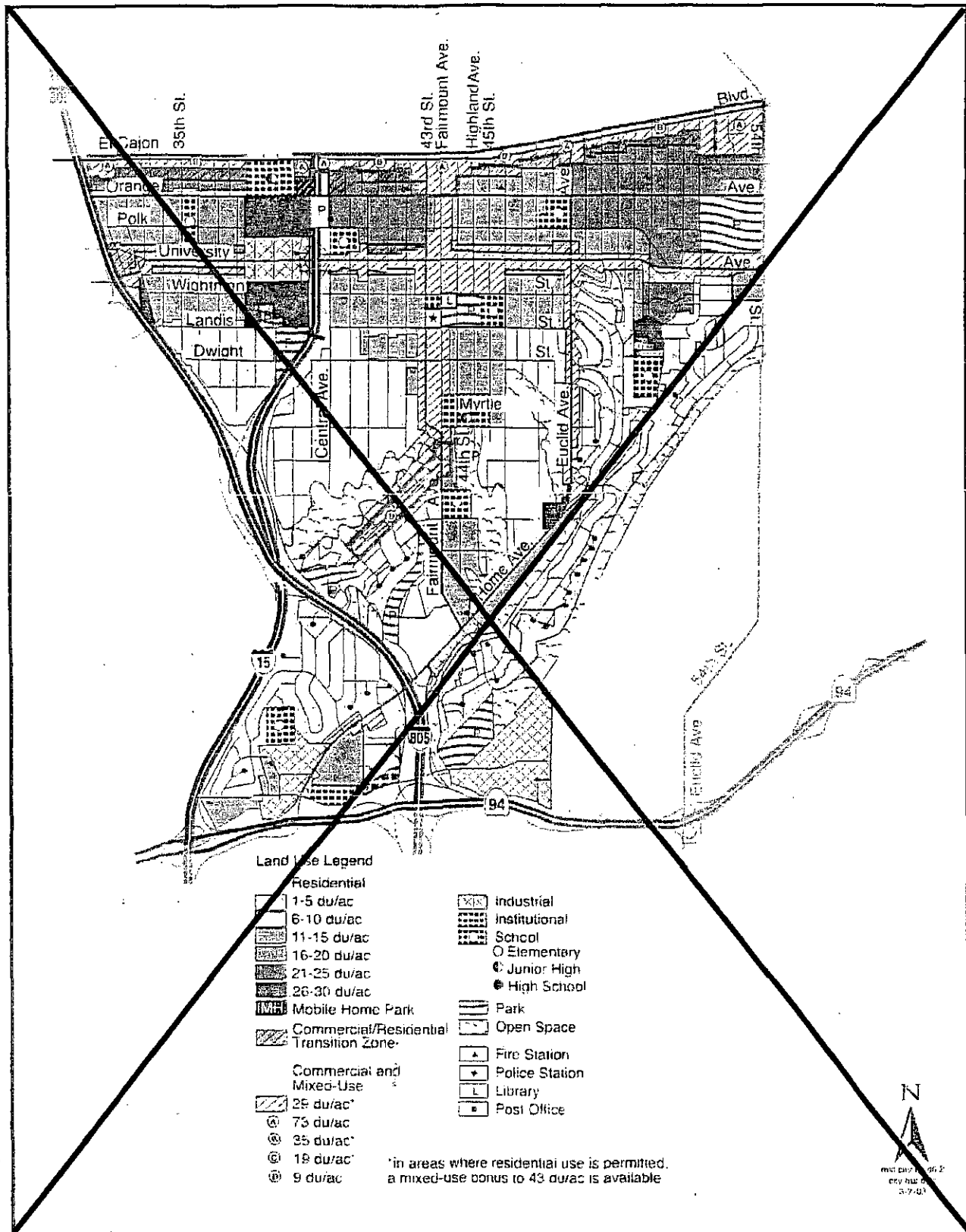
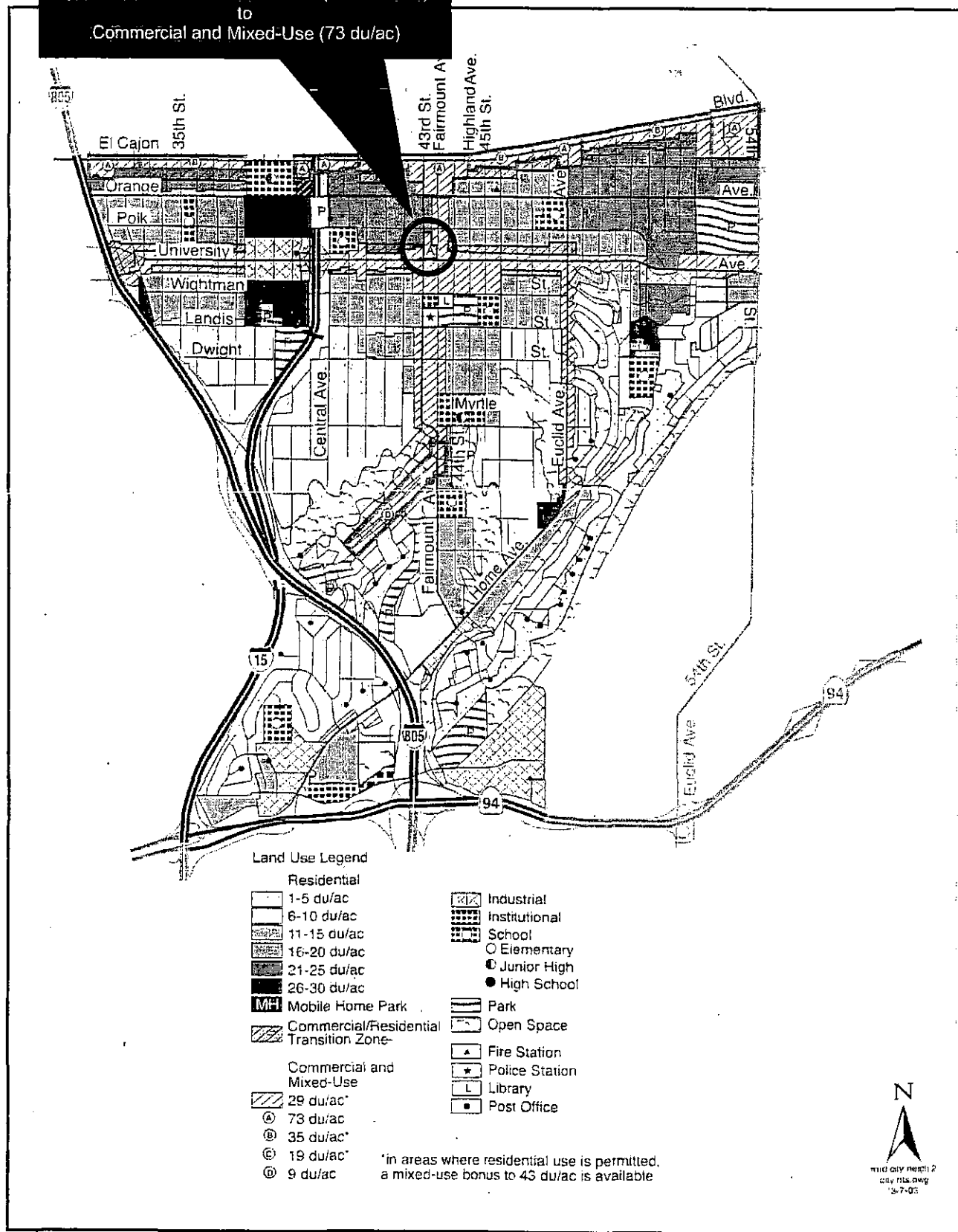


Figure 11  
City Heights Community Plan Map

2.69 acres from Commercial and Mixed-Use  
(29 du/ac and up to 43 du/ac)  
and 0.13 acres from Residential (21-25 du/ac)  
to  
Commercial and Mixed-Use (73 du/ac)



ISSUE DISCUSSED DURING PLANNING COMMISSION HEARING OF NOVEMBER 6, 2008

At its November 6, 2008, hearing, the Planning Commission voted 5-0 to recommend the City Council follow staff's recommendation to certify the Subsequent Addendum to the Mitigated Negative Declaration and approve the proposed project, with an additional comment to "urge the City Council to amend or remove Condition 43 that would cause the destruction of historical resources at Euclid and University Avenues." A discussion of this issue is provided below.

The Condition 43 discussion was a result of public testimony during the hearing regarding a conflict between policies in the Council-adopted Mid-City Communities Plan and the Euclid Avenue Revitalization Action Plan with respect to the intersection of Euclid and University Avenues, and Condition 43 of the draft permit.

Based on the information below, staff has concluded that Condition 43 cannot be modified or eliminated.

- Condition 43

"Prior to the issuance of any building permit, the applicant shall provide a fairshare contribution towards the construction of an additional northbound right-turn lane, eastbound right-turn lane, eastbound left-turn lane and westbound left-turn lane at University/Euclid intersection to the satisfaction of the City Engineer."

- California Environmental Quality Act (CEQA) issues

Condition 43 is a mitigation requirement of the original project's Mitigated Negative Declaration, and was certified by the City Council on June 28, 2005. No questions regarding this issue were presented during that certification and approval process; in fact, no testimony in opposition was provided during either the Planning Commission's recommendation hearing or the City Council's approval hearing. The time for challenging the original CEQA document expired in 2005.

Removal or modification of any mitigation requirements within the certified environmental document would require full environmental analysis. In this case, removal or modification of Condition 43, which is traffic mitigation for the entire City Heights Square development, could require an Environmental Impact Report for an unmitigated impact.

The scope of work within the current amendment does not affect the original environmental determination, and the proposed Subsequent Addendum to the Mitigation Negative Declaration was prepared pursuant to CEQA.

The Public Resources Code (PRC) Sections 21166-211672 discusses challenges to environmental documents. CEQA provides statutory triggers for the preparation of supplemental environmental review and a substantial body of case law has developed interpreting those triggers. CEQA sets for standards for further environmental review when an EIR has previously been prepared for a project (PRC Section 21166). The CEQA Guidelines extend the statute to apply when a negative declaration was previously prepared for a project. Under 14 Cal Code Regs Section 15162, when a negative declaration has been



adopted for a project, an agency may not require preparation of a further EIR unless one of the three triggers for preparation of a subsequent or supplemental EIR exists:

- a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report;
- b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report; or
- c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

In this instance, none of these three triggers applies. The scope of changes for the proposed amendment do not meet the threshold for a) and b), above. The information described below in the Euclid Avenue Revitalization Action Plan and the Mid-City Communities Plan is not “new” information, and was enacted well before the 2005 approval date of the original environmental document.

No comments were received for the original Mitigated Negative Declaration regarding this issue. As indicated above, Condition 43 originated in this document.

It should be noted that the “fairshare” contribution is five percent (approximately \$100,000) and has already been paid by the applicant. This is payment toward a long-term (approximately 2030) improvement, and the other required 95% of the future improvement has not been funded at this time. Improvements at this intersection would be accomplished via a Capital Improvement Project, which would require environmental analysis and public review.

- Mid-City Communities Plan

The Mid-City Communities Plan was adopted by City Council Resolution No. R-290608 on August 4, 1998, and recommends improvement of the intersection of Euclid and University Avenues. This document did receive full CEQA review and certification, including traffic analysis.

- Euclid Avenue Revitalization Action Plan

The Euclid Avenue Revitalization Action Plan (RAP) was approved (rather than adopted) by the City Council by Resolution No. R-293597 on July 31, 2000, and recommends maintenance of the current dimensions of Euclid Avenue. The document discusses the creation of left-turn pockets at intersections where traffic volume requires additional space for turning lanes.

The minutes from the Council Hearing approving the RAP stated the RAP was statutorily exempt from CEQA (Section 15262-Feasibility and Planning Studies), and further stated that subsequent environmental review per CEQA would be required prior to the funding or implementation of any recommendations contained in the RAP, and that implementation of site-specific projects would require additional environmental review. The RAP also indicates that not all traffic improvement recommendations were reviewed by Traffic Engineering and that not all traffic improvement recommendations that were reviewed by Traffic Engineering were thought necessary by Traffic Engineering at the time.

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CITY OF SAN DIEGO • DEVELOPMENT SERVICES

# PROPOSED REZONING



PAR 1,2,3 &amp; 4 BLK 46 LOTS 25-28

ORDINANCE NO. \_\_\_\_\_  
EFF. DATE ORD. \_\_\_\_\_  
ZONING SUBJ. TO \_\_\_\_\_  
BEFORE DATE \_\_\_\_\_  
EFF. DATE ZONING \_\_\_\_\_  
MAP NAME AND NO. \_\_\_\_\_

REQUEST CU-2-4

PLANNING COMM.  
RECOMMENDATIONCITY COUNCIL  
ACTION

CASE NO. 146605

DEVELOPMENT SERVICES MANAGER

**B- 4274**

APN: 471-452-27,30, 37,38, 40, &amp; 42

(212-1737U) 10-23-08 LDJ

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO CERTIFYING AND APPROVING THE  
SUBSEQUENT ADDENDUM TO THE MITIGATED  
NEGATIVE DECLARATION FOR THE CITY HEIGHTS  
SQUARE AMENDMENT – PROJECT NO. 146605.

WHEREAS, City Heights Realty, LLC, a California Not-for-Profit Corporation, and the City of San Diego Redevelopment Agency submitted an application to the City of San Diego for permits to demolish existing structures and construct a mixed-use development on portions of a 2.78-acre site, as described in the Subsequent Addendum to the Mitigated Negative Declaration [MND] for this project (Project No. 146605) and the corresponding conditions of approval for the associated Permit Nos. 514696, 518933, 518932 and 519775, and by this reference thereto made a part hereof; and

WHEREAS, the City of San Diego previously prepared MND No. 40960 and Addendum to MND No. 40960; and

WHEREAS, based upon the Addendum and Initial Study Checklist, it was determined that a Subsequent Addendum to the Mitigated Negative Declaration was appropriate pursuant to CEQA Guidelines section 15162 and 15164; and

WHEREAS, the matter was set for a public hearing to be conducted by the Council of the City of San Diego; and

WHEREAS, the issue was heard by the City Council on \_\_\_\_\_; and

WHEREAS, the City Council considered the issues discussed in Subsequent Addendum to Mitigated Negative Declaration [MND] LDR No. 146605; NOW, THEREFORE,

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BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Subsequent Amendment to Mitigated Negative Declaration LDR No. 146605, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775, and the associated Community Plan Amendment, General Plan Amendment, and Rezone for the City Heights Square – Amendment project (Project No. 146605.) .

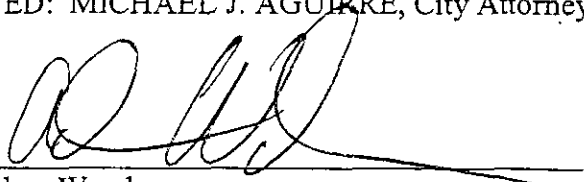
BE IT FURTHER RESOLVED, that the City Council finds that:

1. There are no new significant environmental impacts not considered in the previous Mitigated Negative Declaration;
2. No substantial changes have occurred with respect to the circumstances under which the project is undertaken; and
3. There is no new information of substantial importance to the project.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:

  
Adam Wander  
Deputy City Attorney

ARW:cw  
11/18/08  
Or.Dept:DSD  
R-2009-683  
MMS#7055

003243

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING AN AMENDMENT TO THE MID-CITY COMMUNITY PLAN AND THE GENERAL PLAN FOR THE CITY HEIGHTS SQUARE AMENDMENT-PROJECT NO. 146605.

WHEREAS, City Heights Realty, LLC, requested an amendment to the General Plan and the Mid-City Communities Plan to re-designate approximately 0.13-acres from Residential (21-25 dwelling units per acre [du/ac] and approximately 2.65-acres from Commercial/Mixed-Use (29 du/ac and up to 43 du/ac as a mixed-use bonus) to Commercial/Mixed-Use (73 du/ac located on the general block bounded by Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street and Polk Avenue within the City Heights neighborhood of the Mid-City Communities Plan area; and

WHEREAS, the project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28; City of San Diego, County of San Diego, State of California; and

WHEREAS the proposed General/Community Plan amendment includes technical changes to two land use maps in the Mid-City Communities Plan to reflect the location of existing public facilities; and

WHEREAS, City Council Policy 600-7 provides that public hearings to consider revisions to the General Plan for the City of San Diego may be scheduled concurrently with public hearings on proposed community plans in order to retain consistency between said plans and the Planning Commission has held such concurrent public hearings; and

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WHEREAS, the Planning Commission of the City of San Diego found the proposed amendment consistent with the General Plan; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

WHEREAS, the Council of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered oral presentations given at the public hearing; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the amendments to the Mid-City Communities Plan, a copy of which is on file in the office of the City Clerk as Document No. RR-\_\_\_\_\_.

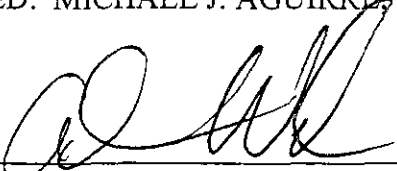
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(R-2009-645)

BE IT FURTHER RESOLVED, that the Council adopts an amendment to the General Plan for the City of San Diego to incorporate the above amended plan.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:

  
Adam Wander  
Deputy City Attorney

ARW:cw  
11/18/08  
Or.Dept:DSD  
R-2009-645  
MMS#7055



## CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

EFFECTIVE DATE \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 4.17 ACRES LOCATED IN THE BLOCK BOUNDED BY UNIVERSITY AVENUE, 43<sup>RD</sup> STREET, FAIRMOUNT AVENUE AND POLK AVENUE, WITHIN THE CITY HEIGHTS NEIGHBORHOOD OF THE MID-CITY COMMUNITIES PLAN AREA IN THE CITY OF SAN DIEGO FROM THE CT-2-3 AND CU-2-3 ZONES OF THE CENTRAL URBANIZED PLANNED DISTRICT, INTO THE CU-2-4 ZONE OF THE CENTRAL URBANIZED PLANNED DISTRICT, AS DEFINED BY CHAPTER 15, ARTICLE 5, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE; AND REPEALING ORDINANCE NO. O-18855 (NEW SERIES), ADOPTED OCTOBER 2, 2000, OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HERewith.

This ordinance approves the rezoning of 4.17 acres from the CT-2-3 and CU-2-3 zones of the Central Urbanized Planned District, into the CU-2-4 zone of the Central Urbanized Planned District, in connection with property located in the block bounded by University Avenue, 43<sup>rd</sup> Street, Fairmount Avenue and Polk Avenue, within the City Heights Neighborhood in the Mid-City Communities Plan, in the City of San Diego, California.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its final passage, since a written or printed copy will be available to the City Council and the public a day prior to its final passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

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A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

ARW:cw

11/18/08

Or.Dept:DSD

O-2009-78

MMS#7055

003249

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 4.17 ACRES LOCATED IN THE BLOCK BOUNDED BY UNIVERSITY AVENUE, 43<sup>RD</sup> STREET, FAIRMOUNT AVENUE AND POLK AVENUE, WITHIN THE CITY HEIGHTS NEIGHBORHOOD OF THE MID-CITY COMMUNITIES PLAN AREA IN THE CITY OF SAN DIEGO FROM THE CT-2-3 AND CU-2-3 ZONES OF THE CENTRAL URBANIZED PLANNED DISTRICT, INTO THE CU-2-4 ZONE OF THE CENTRAL URBANIZED PLANNED DISTRICT, AS DEFINED BY CHAPTER 15, ARTICLE 5, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE; AND REPEALING ORDINANCE NO. O-18855 (NEW SERIES), ADOPTED OCTOBER 2, 2000, OF THE CITY OF SAN DIEGO INSOFAR AS THE SAME CONFLICTS HEREWITH.

WHEREAS, under Charter section 280(a)(2) this ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That 4.17 acres, roughly bounded by University Avenue, 43<sup>rd</sup> Street, Fairmount Avenue and Polk Avenue, and legally described as Parcels 1 through 4, inclusive of Parcel Map No. 19854; together with Lots 25 through 28, inclusive in Block 46 of City Heights, per Map thereof No. 1007, excepting therefrom the easterly 10 feet; together with the easterly 10

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feet of the vacated unnamed alley abutting said Lots 25 through 28, in the City Heights neighborhood of the Mid-City Communities Plan area, in the City of San Diego, California, as shown on Zone Map Drawing No. B-4274 filed in the office of the City Clerk as Document No. OO- \_\_\_\_\_, are rezoned from the CT-2-3 and CU-2-3 Zones of the Central Urbanized Planned District into the CU-2-4 Zone of the Central Urbanized Planned District; as the zones are described and defined by San Diego Municipal Code Chapter 15 Article 5 Division 2. This action amends the Official Zoning Map adopted by Resolution R-301263 on February 28, 2006.

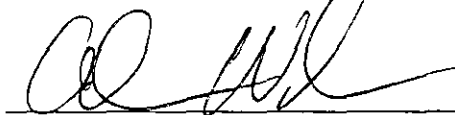
Section 2. That Ordinance No. O-18855 (New Series), adopted October 2, 2000, of the ordinances of the City of San Diego is repealed insofar as the same conflicts with the rezoned uses of the land.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, and no building permits for development inconsistent with the provisions of this ordinance shall be issued unless application therefore was made prior to the date of adoption of this ordinance.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:



Adam Wander  
Deputy City Attorney

ARW:cw  
11/18/08  
Or.Dept:DSD  
O-2009-78  
MMS#7055

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING PLANNED DEVELOPMENT PERMIT NO. 514696, NEIGHBORHOOD USE PERMIT NO. 518933, CONDITIONAL USE PERMIT NO. 518932, AND SITE DEVELOPMENT PERMIT NO. 519775 AS AMENDMENTS TO PLANNED DEVELOPMENT PERMIT NO. 308092, NEIGHBORHOOD USE PERMIT NO. 327436, CONDITIONAL USE PERMIT NO. 308101, AND SITE DEVELOPMENT PERMIT NO. 308102, RESPECTIVELY.

WHEREAS, City Heights Realty, LLC, a California nonprofit corporation, and the City of San Diego Redevelopment Agency, Owner/Permittee, filed an application with the City of San Diego for a permit to demolish existing structures and construct a mixed-use development on portions of a 2.78-acre site, as described in Exhibit "A" and the corresponding conditions of approval for the associated Permit Nos. 514696, 518933, 518932 and 519775, and by this reference thereto made a part hereof; and

WHEREAS, the project site is located at on the general block bounded by Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue in the CT-2-3 and the CU-2-3 Zones (proposed CU-2-4 Zone) of the Central Urbanized Planned District within the City Heights neighborhood of the Mid-City Communities Plan area; and

WHEREAS, the project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28; and

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WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775, and pursuant to Resolution No. \_\_\_\_\_, voted to recommend City Council approval of the permits; and

WHEREAS, under Charter section 280(a)(2) this resolution/ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented;

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego as follows:

That the City Council adopts the following written Findings, dated \_\_\_\_\_.

**PLANNED DEVELOPMENT PERMIT FINDINGS – SAND DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604:**

**A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

**Findings for all Site Development Permits:**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

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The project implements the MCCP recommendations for the provision of housing needs for seniors in the community and the provision of market-rate housing. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one on-site property manager's unit, as well as 78 market-rate residential units.

The MCCP envisions City Heights as a pedestrian-friendly community with urban plazas at key crossroads, including the intersections of 43<sup>rd</sup> Street and Fairmount Avenue with University Avenue. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

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The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

**D. THE PROPOSED DEVELOPMENT, WHEN CONSIDERED AS A WHOLE, WILL BE BENEFICIAL TO THE COMMUNITY.**

The proposed mixed-use development is permitted at this location, as discussed within the applicable Mid-City Communities Plan and City Heights Redevelopment Plan. The proposed senior residential facility and retail/residential building will provide much needed housing that exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside more than 30% of the proposed units (150 affordable senior units, 14 affordable units, 78 market-rate units, and one manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of Area Median Income (AMI) and other low-income tenants. The affordable units would consist of 75 studio units and 75 one bedroom units that would be affordable in perpetuity, as well as 14 affordable units that would be affordable for 55 years.

The project is located within a facility deficient neighborhood. The recent adoption of the San Diego General Plan Update and its Recreation Element provided updated direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. The project provides a 5,432-square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 10,000-square-foot activity area. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School. Finally, the proposed multi-family residential use (Building 1) contains approximately 1,380 square feet of interior passive and recreation area.

The outpatient medical clinic will meet community needs by providing non-profit medical, dental and social service agency uses in this redevelopment area. The retail office buildings at the crossroads of University and Fairmount Avenues will provide quality uses within the area. Senior housing, employment opportunities and medical



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services, with more than adequate on-site parking, would be available in the same street block, thereby providing a benefit to the community as a whole. The overall appearance of new structures would be compatible with the architectural detail and appearance of the newer redevelopment project to the south, while still maintaining a sufficient transition to adjacent older uses.

**E. ANY PROPOSED DEVIATIONS PURSUANT TO SECTION 126.0602(b)1 ARE APPROPRIATE FOR THIS LOCATION AND WILL RESULT IN A MORE DESIREABLE PROJECT THAN WOULD BE ACHIEVED IF DESIGNED IN STRICT CONFORMANCE WITH THE DEVELOPMENT REGULATIONS OF THE APPLICABLE ZONE.**

The proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the proposed CU-2-4 Zone of the Central Urbanized Planned District. The side and rear setback deviations are minimal, and with the large scale of the project crossing various property lines and zones, result in a clearer, more consistent building design. The transparency deviation is necessary for the senior residential facility since it is generally a development regulation appropriate for commercial uses, and not the proposed residential use. The size of the interior courtyard for Building 3 was designed to provide the largest assembly space in the building and such large planters would and take up space necessary for proposed senior activities such as exercise classes, arts and crafts, concerts and mixers. The reduced landscape area allows accommodation of a scale more appropriate to this narrower courtyard and the new trees specified were selected for their ability to grow beyond the minimum height and spread of 15 feet (without compromising the root zone) when planted in a 22-square-foot planter. While the parking is reduced for the senior facility in Building 3, the spaces are provided in Building 1 via a shared parking agreement. Furthermore, the entire development provides a total of 470 parking spaces, which exceeds the total requirement of 410 spaces. Due to the density, use and expected frequency, staff supports the deviation to reduce the number of off-street loading spaces from two spaces to one space. Based on the strict application of the CU-2-4 Zone, these deviations are necessary in order to accommodate the anticipated mixed-use development use at this location.

**NEIGHBORHOOD USE PERMIT FINDINGS – SDMC SECTION 126.0205:**

**A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

**Findings for all Neighborhood Use Permits:**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-

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City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed medical clinic which necessitates the Neighborhood Use Permit complements the mixed-use nature of the project and provides much needed medical services for the project area population and implements the MCCP and CUPD goals of providing a full complement of goods and services to meet the economic development needs of the community.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

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**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE APPLICABLE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

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**CONDITIONAL USE PERMIT FINDINGS – SDMC SECTION 126.0305:****Findings for all Conditional Use Permits:****A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

The project site lies within the Mid-City Communities Plan and the City Heights Redevelopment Plan area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed senior housing which necessitates the Conditional Use Permit complements the mixed-use nature of the project and implements the MCCP recommendation for the provision of housing needs for seniors in the community. The senior residential component of the project provides 150 needed housing units affordable to very low-income seniors and one, on-site property manager's unit.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water

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resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY TO THE MAXIMUM EXTENT FEASIBLE WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The permit prepared for this development includes a variety of conditions of approval relevant to achieving project compliance with the regulations of the Land Development Code in effect for this site. The proposed site improvements are consistent with the general purpose and intent of the Mid-City Communities Plan, the City Heights Redevelopment Plan, and the CU-2-4 Zone of the Central Urbanized Planned District, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes.

**D. THE PROPOSED USE IS APPROPRIATE AT THE PROPOSED LOCATION.**

The proposed mixed-use project, including the senior residential development, is appropriate at this location. According to the Mid-City Communities Plan, the 2.78-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 209 residential dwelling units, absent any density bonus for projects providing affordable housing units. With the proposed 35% affordable housing density bonus (for providing more than 30% low-income units, per the City's Inclusionary Housing Ordinance and Density Bonus Program), 261 dwelling units could be built on the project site. The project proposes to build a total of 243 units (92 units in Building 1 and 151 units in Building 3, which have already been constructed per the original permit). The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit, which have already been constructed per the original permit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.

**SITE DEVELOPMENT PERMIT FINDINGS – SDMC SECTION 126.0504(a):****Findings for all Site Development Permits:****A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The project implements the MCCP recommendations for the provision of housing needs for seniors in the community and the provision of market-rate housing. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one on-site property manager's unit, as well as 78 market-rate residential units.

The MCCP envisions City Heights as a pedestrian-friendly community with urban plazas at key crossroads, including the intersections of 43<sup>rd</sup> Street and Fairmount Avenue with University Avenue. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The MCCP envisions City Heights as a pedestrian-friendly community of urban plazas. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The project is located within a facility deficient neighborhood. The recent adoption of the San Diego General Plan Update and its Recreation Element provided updated direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. The project provides a 5,432-square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 10,000-

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square-foot activity area. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School. Finally, the proposed multi-family residential use (Building 1) contains approximately 1,380 square feet of interior passive and recreation area.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE APPLICABLE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community.

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The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

**SITE DEVELOPMENT PERMIT FINDINGS – DEVIATION FOR AFFORDABLE HOUSING – SDMC SECTION 126.0504(I):**

**Findings for all Site Development Permit Findings-Deviation for Affordable Housing:**

**A. THE PROPOSED DEVELOPMENT WILL MATERIALLY ASSIST IN ACCOMPLISHING THE GOAL OF PROVIDING AFFORDABLE HOUSING OPPORTUNITIES IN ECONOMICALLY BALANCED COMMUNITIES THROUGHOUT THE CITY.**

The City Heights Square project implements the goal of providing affordable housing opportunities for seniors in the community. The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside more than 30% of the proposed units (150 senior units, 14 affordable units, 78 market-rate units, and 1 manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of the Area Median Income in perpetuity, and other low-income tenants for 55 years.

**B. THE DEVELOPMENT WILL NOT BE INCONSISTENT WITH THE PURPOSE OF THE UNDERLYING ZONE.**

The proposed mixed-use project, including the senior residential development, is appropriate at this location. According to the Mid-City Communities Plan, the 2.78-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 209 residential dwelling units, absent any density bonus for projects providing affordable housing units. With the proposed 35% affordable housing density bonus (for providing more than 30% low-income units, per the City's Inclusionary Housing Ordinance and Density Bonus Program), 261 dwelling units could be built on the project site. The project proposes to build a total of 243 units (92 units in Building 1 and 151 units in Building 3, which have already been constructed per the original permit). The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit, which have already been constructed per the original permit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.



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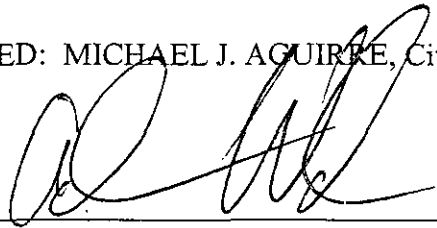
**C. THE DEVIATIONS ARE NECESSARY TO MAKE IT ECONOMICALLY  
FEASIBLE FOR THE APPLICANT TO UTILIZE A DENSITY BONUS  
AUTHORIZED FOR THE DEVELOPMENT PURSUANT TO SECTION  
143.0730.**

The increased residential density at this site is based on the critical need for affordable housing to very low-income seniors in San Diego and the appropriateness and cost efficiencies of developing such housing at the density proposed.

BE IT FURTHER RESOLVED, that, based on the findings hereinbefore adopted by the City Council, Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775 are hereby GRANTED by the City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 514696, 518933, 518932 and 519775, copies of which are attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:

  
Adam Wander  
Deputy City Attorney

ARW:cw  
11/18/08  
Or.Dept:DSD  
R-2009-646  
MMS#7055

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RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES

WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-5990

PLANNED DEVELOPMENT PERMIT NO. 514696  
NEIGHBORHOOD USE PERMIT NO. 518933  
CONDITIONAL USE PERMIT NO. 518932  
SITE DEVELOPMENT PERMIT NO. 519775

AMENDMENT TO

PLANNED DEVELOPMENT PERMIT NO. 308092  
NEIGHBORHOOD USE PERMIT NO. 327436  
CONDITIONAL USE PERMIT NO. 308101  
SITE DEVELOPMENT PERMIT NO. 308102

**CITY HEIGHTS SQUARE AMENDMENT – PROJECT NO. 146605 [MMRP]**

**CITY COUNCIL**

This Planned Development Permit (PDP)/Neighborhood Use Permit (NUP)/Conditional Use Permit (CUP)/Site Development Permit (SDP) is granted by the City Council of the City of San Diego to the CITY HEIGHTS REALTY, LLC, A CALIFORNIA NOT-FOR-PROFIT CORPORATION, AND THE CITY OF SAN DIEGO REDEVELOPMENT AGENCY, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] Sections 126.0602, 126.0203, 126.0303, and 126.0502. The 2.78-acre site is located between Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue, in the CT-2-3 and the CU-2-3 Zones (proposed CU-2-4 Zone) of the Central Urbanized Planned District, within the City Heights neighborhood of the Mid-City Communities Plan. The project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish existing structures and construct a mixed-use development, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated \_\_\_\_\_, on file in the Development Services Department.

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The project or facility shall include:

- a. The construction of an approximately 302,497-square-foot, mixed-use development consisting of 151 senior residential units, a medical clinic, and retail/office/multi-family residential apartments in three buildings, parking, and an approximately 5,432-square-foot recreational area;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Deviations for side setback; street side setback, rear yard, transparency requirements, parking, off-street loading requirements, and landscape planter size requirements;
- e. The encroachment of the subterranean parking structure for Building 2 into the alley right-of-way;
- f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

This project consists of four distinct building projects on separate legal parcels, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated \_\_\_\_\_, on file in the Development Services Department. This project has been previously-approved on June 28, 2005 and subsequently amended on April 20, 2006; accordingly, components of this project have been accomplished. This Permit acknowledges that each individual project may be constructed in phases, with separate and not necessarily concurrent schedules. Where permit conditions apply to site specific development conditions, fulfillment of the condition requirements shall apply to the individual project seeking a building permit or occupancy, as identified in the following requirements and conditions. The required satisfaction of conditions for any phase of the project shall be at the sole discretion of the City Manager.

#### **STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

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- a. The Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
  4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
  5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
  6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
  7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
  8. Before issuance of each building or grading permit, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
  9. All relevant conditions of Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102 (Project No. 95232) shall remain in full effect unless otherwise conditioned in this permit (Project No. 146605).
  10. This project shall conform with the provisions of Community Plan Amendment No. 518922 and Rezone No. 518921.
  11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall

have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act (ADA) requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

13. This project shall conform with the provisions of Easement Vacation No. 116930. No building permits shall be issued prior to the recordation of Easement Vacation No. 116930.

#### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

14. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

15. As conditions of Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775 (An Amendment to Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102), the mitigation measures specified in the MMRP, and outlined in MITIGATED NEGATIVE DECLARATION NO. 146605, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the SUBSEQUENT ADDENDUM TO A MITIGATED NEGATIVE DECLARATION NO. 146605 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Health and Safety
- Paleontology
- Transportation/Circulation/Parking
- Waste Management

17. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

18. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

## **AFFORDABLE HOUSING REQUIREMENTS:**

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19. Prior to receiving the first residential building permit for each residential structure, the applicant shall comply with the Affordable Housing Requirements of the City's Density Bonus Affordable Housing Requirements pursuant to California Government Code Sections 65915-65918 and San Diego Municipal Code Chapter 14, Article 3, Division 7.

20. The project is subject to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The project will also be subject to an Agreement with the City of San Diego Redevelopment Agency, which includes deed restrictions equivalent or more stringent than the Inclusionary Housing restrictions. The inclusionary ordinance is not cumulative to (or in addition to) the Agreement with the City of San Diego Redevelopment Agency. In the event that the project does not fulfill the terms of the Redevelopment Agency restrictions due to default, foreclosure, or cancellation/dissolution of the Redevelopment Agency participation or for any other reason(s) prior to their satisfaction, the inclusionary requirements will apply to the project. In such event, the project owner will be required to enter into an affordable housing agreement with the San Diego Housing Commission to provide 10% of the units as affordable on-site; an in-lieu fee option will not be available.

## **ENGINEERING REQUIREMENTS:**

21. Prior to building occupancy, the applicant shall dedicate 3.5 feet of right-of-way along Polk Avenue to the satisfaction of the City Engineer.

22. Prior to building occupancy, a dedication of 2 feet will be required along the property frontage on University Avenue, as necessary, to provide for a 10-foot curb-to-property line distance along this frontage, to the satisfaction of the City Engineer.

23. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the applicant to provide the right-of-way free and clear of all encumbrances and prior easements, to the satisfaction of the City Engineer. Generally, the Applicant must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.

24. Prior to the issuance of a building permit for each individual building site, the applicant shall obtain a grading permit for the grading proposed for that site, to the satisfaction of the City Engineer. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

25. This project proposes to export approximately 79,500 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.

26. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict

recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.

27. Prior to the issuance of any construction permit, the Applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code into the construction plans or specifications.

28. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

29. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.

30. Prior to the issuance of each construction permit the Applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMPs) on the final construction drawings, in accordance with the approved Water Quality Technical Report, to the satisfaction of the City Engineer.

31. Prior to occupancy of each building, the Applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, to the satisfaction of the City Engineer.

32. Prior to occupancy of Building 1, the Applicant shall construct concrete bus pads in accordance with MTDB Design Guidelines and City of San Diego Standard Drawing SDG-102 at the stops near the corner of Fairmount and University Avenues and the corner of 43rd Street and University Avenue, to the satisfaction of the City Engineer.

33. Prior to occupancy of each building, the Applicant shall reconstruct curb ramps in the abutting right-of-way in accordance with City Standard Drawing SDG-132 to the satisfaction of the City Engineer.

34. Prior to occupancy of each building, the Applicant shall reconstruct the alleys abutting the project site, to the satisfaction of the City Engineer.

35. Prior to occupancy for Building 2, the Applicant shall construct curb ramps at the alley intersection with Fairmount Avenue, and prior to occupancy for Building 3, the applicant shall construct curb ramps at the alley intersection at Polk Avenue, to the satisfaction of the City Engineer. Construction of curb ramps will be required for both sides of the alley.

36. Prior to occupancy of each building, the Applicant shall replace the curb along the project frontage with City standard curb and gutter, satisfactory to the City Engineer.
37. Prior to occupancy of each building, the Applicant shall replace damaged sidewalks adjacent to the site, to the satisfaction of the City Engineer.
38. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-16 and SDG-100.
39. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for private drainage facilities in the public right-of-way, to the satisfaction of the City Engineer.
40. Prior to the issuance of building permits for Building 1 or Building 2, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for the proposed encroachments of subterranean parking structures within the alley right-of-way for Building 2, and into the public rights-of-way at the corner of 43rd Street and University Avenue, and the corner of Fairmount Avenue and University Avenue for Building 1, to the satisfaction of the City Engineer.
41. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer.
42. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide an exclusive northbound left-turn lane on Fairmount Avenue for the garage ramp between Building 1 and 2, to the satisfaction of the City Engineer.
43. Prior to the issuance of any building permit, the applicant shall provide a fairshare contribution towards the construction of an additional northbound right-turn lane, eastbound right-turn lane, eastbound left-turn lane and westbound left-turn lane at University/Euclid intersection to the satisfaction of the City Engineer.
44. Prior to the issuance of any building permit for Building 1 or Building 3, the applicant shall provide a shared parking agreement for three (3) parking spaces for the senior housing units in Building 3 to be provided in Building 1, to the satisfaction of the City Manager. A Shared Parking Agreement should be provided for these spaces within the Building 1 parking structure. In the event that the Building 1 parking structure is not complete when Building 3 is ready to be occupied, the applicant shall submit an interim parking plan that provides for the three (3) spaces until the Building 1 parking structure is complete, to the satisfaction of the City Manager.
45. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide a mutual access agreement between the property owners of Building 1 and Building 2 for the use of the garage ramp (located on Building 1) to Building 2, to the satisfaction of the City Manager.

**LANDSCAPE REQUIREMENTS:**



46. In the event the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to meet the Landscape Regulations.
47. Prior to issuance of any construction permits for each structure (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) for each building shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit A, Landscape Development Plan, on file in the Office of Development Services.
48. Prior to issuance of construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual, Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.
49. Prior to issuance of any construction permit for each parking structure, the Permittee shall submit on the planting and irrigation plans for each structure a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
50. Prior to issuance of each engineering permit for right-of-way improvements, except water and sewer relocation improvement plans, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
51. Prior to the issuance of engineering permits for water and sewer relocation improvement plans, plans shall be approved by the City Manager for landscape purposes. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
52. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.
53. Prior to issuance of a Certificate of Occupancy for each building, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections, to the satisfaction of the City Manager. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
54. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

55. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

56. In the event that a foundation only permit is requested by the Permittee or Subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

57. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

58. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install and establish permanent erosion control in the future park area in the event construction of the park has not started.

#### **PLANNING/DESIGN REQUIREMENTS:**

59. No fewer than a total of 410 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

60. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

61. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

62. Deviations approved:

- a. A 2'-3" side yard setback for Building 3 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;

- b. A 6'-8" rear yard setback for Building 2 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;
  - c. A deviation from the transparency requirements where 50 percent of the building wall between 3 feet and 10 feet above grade for Building 3 shall be transparent into a commercial or residential use, per SDMC Section 131.0552;
  - d. A reduction of the required number of parking spaces (78 spaces provided where 81 spaces are required) for Building 3, per SDMC Section 142.0530; and
  - e. A reduction in the planter size from the required 40 square feet to approximately 22 square feet in the interior courtyard of Building 3, per SDMC Section 142.0403.
63. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.
64. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
65. Housing for senior citizens (Building 3) shall meet the requirements of one of the following:
- a. "Housing for older person" as defined in 42 United States Code Section 3607(b) of the Fair Housing Act Amendments of 1988 and 24 code of Federal Regulations, section 100.304; or
  - b. "Senior citizen housing development" as defined in Section 51.3 of the California Civil Code.
66. The senior housing is to remain affordable (as defined by the Housing Commission) to very-low income seniors in perpetuity. Prior to issuance of the building permit, the applicant is required to provide a copy of the agreement between all parties.
67. Overnight patients are not permitted at the Outpatient Medical Clinic (Building 2).
68. The Outpatient Medical Clinic shall remain closed between the hours of 12:00 midnight and 6:00 a.m.
69. All signs associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.
70. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

71. Parking areas shall be lighted for the safety of tenants. Lighting shall be of a design that deters vandalism. Prior to the issuance of the building permits, the location, type and size of the proposed lighting fixtures shall be specified on the construction plans.

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72. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

73. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

74. All uses, except storage and loading and activities at the park, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

75. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

76. Prior to the issuance each building permit, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," on file in the Development Services Department.

**PARK AND RECREATION REQUIREMENTS:**

77. Prior to issuance of Certificate of Occupancy for Building 3 (the senior housing facility), the applicant shall convey the deed to the park property to the Redevelopment Agency pursuant to the Disposition and Development Agreements and purchase agreements approved by the Redevelopment Agency on May 3, 2005, by Resolution Nos. R-03900, R-03901, R-03905 and R-03906.

78. The applicant shall enter into an agreement with the City of San Diego to provide maintenance and operations for the 5,432-square-foot public park in perpetuity pursuant to the Disposition and Development Agreements on May 3, 2005, by Resolution Nos. R-03900 and R-03905, and shall run with the land in case of change of property ownership.

79. Prior to issuance of any building permits, for the 92-unit mixed-use development (Building 1), the Owner/Permittee shall make a contribution in-lieu of the park portion of the Mid-City Development Impact Fee (DIF), in the amount of \$807,484 to satisfy the project's population-based park requirement. These funds shall be placed into an interest bearing account for parks in the City Heights area. This payment shall constitute the park portion of the DIF.

**WASTEWATER REQUIREMENTS:**

80. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

81. Prior to the issuance of any grading or building permits, the developer shall relocate on-site public sewer mains, satisfactory to the Director of Public Utilities. All associated public easements shall be vacated, satisfactory to the Director of Public Utilities.

82. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

83. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

84. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

**WATER REQUIREMENTS:**

85. Prior to the issuance of any building permits, including foundation, the Owner/Permittee shall assure, by permit and bond, the design and construction of new 12-inch public water facilities in Fairmount Avenue from University Avenue to Polk Avenue, in a manner satisfactory to the Water Department Director and the City Engineer.

86. Prior to the issuance of any building permits, including foundation, the Owner/Permittee shall cut, plug, and abandon the existing public water facilities, located within the easement to be

vacated traversing the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

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87. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any vehicular use area, in a manner satisfactory to the Water Department Director and the City Engineer.

88. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device on each water service, existing or proposed, in a manner satisfactory to the Water Department Director and the City Engineer.

89. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

90. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on the approved Exhibit "A," shall be modified at final engineering to conform to standards.

#### **REDEVELOPMENT AGENCY REQUIREMENTS:**

91. The developer shall comply with the requirements of the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and City Heights Square LP and the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and San Diego Revitalization Corporation, approved by the City Council and Redevelopment Agency on May 3, 2005, as long as these agreements are in effect, or as amended, including any attachments thereto.

92. The developer shall reserve the park parcel for the exclusive use as a public park, in accordance with a Purchase and Sale Agreement between San Diego Revitalization Corporation and the Redevelopment Agency, approved on May 3, 2005, the Redevelopment Agency shall acquire the park site from San Diego Revitalization Corporation for the purpose of conveying the site to the City for a public park.

#### **INFORMATION ONLY:**

003273 This Development is subject to Development Impact Fees (DIF), the Mid-City Special Park Fee (SPF), and a Housing Trust Fund (HTF) fee. The fees in effect at the time building permits are issued will be the effective rate.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_ by Resolution No.

\_\_\_\_\_.

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By \_\_\_\_\_

\_\_\_\_\_  
The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

CITY HEIGHTS REALTY, LLC, a  
California Not-for-Profit Corporation  
Owners/Permittees

By \_\_\_\_\_

By \_\_\_\_\_

CITY OF SAN DIEGO  
REDEVELOPMENT AGENCY  
Owners/Permittees

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**



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**RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES**

**WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-5990

PLANNED DEVELOPMENT PERMIT NO. 514696  
NEIGHBORHOOD USE PERMIT NO. 518933  
CONDITIONAL USE PERMIT NO. 518932  
SITE DEVELOPMENT PERMIT NO. 519775

AMENDMENT TO

PLANNED DEVELOPMENT PERMIT NO. 308092  
NEIGHBORHOOD USE PERMIT NO. 327436  
CONDITIONAL USE PERMIT NO. 308101  
SITE DEVELOPMENT PERMIT NO. 308102

**CITY HEIGHTS SQUARE AMENDMENT – PROJECT NO. 146605 [MMRP]**

**CITY COUNCIL**

This Planned Development Permit (PDP)/Neighborhood Use Permit (NUP)/Conditional Use Permit (CUP)/Site Development Permit (SDP) is granted by the City Council of the City of San Diego to the CITY HEIGHTS REALTY, LLC, A CALIFORNIA NOT-FOR-PROFIT CORPORATION, AND THE CITY OF SAN DIEGO REDEVELOPMENT AGENCY, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] Sections 126.0602, 126.0203, 126.0303, and 126.0502. The 2.78-acre site is located between Fairmount Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue, in the CT-2-3 and the CU-2-3 Zones (proposed CU-2-4 Zone) of the Central Urbanized Planned District, within the City Heights neighborhood of the Mid-City Communities Plan. The project site is legally described as Lots 1 through 8, inclusive, and 25 through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly 10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish existing structures and construct a mixed-use development, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated \_\_\_\_\_, on file in the Development Services Department.

The project or facility shall include:

- a. The construction of an approximately 302,497-square-foot, mixed-use development consisting of 151 senior residential units, a medical clinic, and retail/office/multi-family residential apartments in three buildings, parking, and an approximately 5,432-square-foot recreational area;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities;
- d. Deviations for side setback; street side setback, rear yard, transparency requirements, parking, off-street loading requirements, and landscape planter size requirements;
- e. The encroachment of the subterranean parking structure for Building 2 into the alley right-of-way;
- f. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

This project consists of four distinct building projects on separate legal parcels, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated \_\_\_\_\_, on file in the Development Services Department. This project has been previously-approved on June 28, 2005 and subsequently amended on April 20, 2006; accordingly, components of this project have been accomplished. This Permit acknowledges that each individual project may be constructed in phases, with separate and not necessarily concurrent schedules. Where permit conditions apply to site specific development conditions, fulfillment of the condition requirements shall apply to the individual project seeking a building permit or occupancy, as identified in the following requirements and conditions. The required satisfaction of conditions for any phase of the project shall be at the sole discretion of the City Manager.

#### **STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

003283 a. The Permittee signs and returns the Permit to the Development Services Department; and

b. The Permit is recorded in the Office of the San Diego County Recorder

3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. Before issuance of each building or grading permit, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All relevant conditions of Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102 (Project No. 95232) shall remain in full effect unless otherwise conditioned in this permit (Project No. 146605).

10. This project shall conform with the provisions of Community Plan Amendment No. 518922 and Rezone No. 518921.

11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall

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have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with Americans with Disability Act (ADA) requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

13. This project shall conform with the provisions of Easement Vacation No. 116930. No building permits shall be issued prior to the recordation of Easement Vacation No. 116930.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

14. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

15. As conditions of Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775 (An Amendment to Planned Development Permit No. 308092, Neighborhood Use Permit No. 327436, Conditional Use Permit No. 308101, and Site Development Permit No. 308102), the mitigation measures specified in the MMRP, and outlined in MITIGATED NEGATIVE DECLARATION NO. 146605, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

16. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the SUBSEQUENT ADDENDUM TO A MITIGATED NEGATIVE DECLARATION NO. 146605 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

Health and Safety  
Paleontology  
Transportation/Circulation/Parking  
Waste Management

17. Prior to issuance of any construction permit, the applicant shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

18. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

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**AFFORDABLE HOUSING REQUIREMENTS:**

19. Prior to receiving the first residential building permit for each residential structure, the applicant shall comply with the Affordable Housing Requirements of the City's Density Bonus Affordable Housing Requirements pursuant to California Government Code Sections 65915-65918 and San Diego Municipal Code Chapter 14, Article 3, Division 7.

20. The project is subject to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). The project will also be subject to an Agreement with the City of San Diego Redevelopment Agency, which includes deed restrictions equivalent or more stringent than the Inclusionary Housing restrictions. The inclusionary ordinance is not cumulative to (or in addition to) the Agreement with the City of San Diego Redevelopment Agency. In the event that the project does not fulfill the terms of the Redevelopment Agency restrictions due to default, foreclosure, or cancellation/dissolution of the Redevelopment Agency participation or for any other reason(s) prior to their satisfaction, the inclusionary requirements will apply to the project. In such event, the project owner will be required to enter into an affordable housing agreement with the San Diego Housing Commission to provide 10% of the units as affordable on-site; an in-lieu fee option will not be available.

**ENGINEERING REQUIREMENTS:**

21. Prior to building occupancy, the applicant shall dedicate 3.5 feet of right-of-way along Polk Avenue to the satisfaction of the City Engineer.

22. Prior to building occupancy, a dedication of 2 feet will be required along the property frontage on University Avenue, as necessary, to provide for a 10-foot curb-to-property line distance along this frontage, to the satisfaction of the City Engineer.

23. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the applicant to provide the right-of-way free and clear of all encumbrances and prior easements, to the satisfaction of the City Engineer. Generally, the Applicant must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.

24. Prior to the issuance of a building permit for each individual building site, the applicant shall obtain a grading permit for the grading proposed for that site, to the satisfaction of the City Engineer. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

25. This project proposes to export approximately 79,500 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the processing and sale of the export material. All such activities require a separate Conditional Use Permit.

26. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict

recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.

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27. Prior to the issuance of any construction permit, the Applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code into the construction plans or specifications.

28. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed with the SWRCB.

29. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 99 08 DWQ.

30. Prior to the issuance of each construction permit the Applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMPs) on the final construction drawings, in accordance with the approved Water Quality Technical Report, to the satisfaction of the City Engineer.

31. Prior to occupancy of each building, the Applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, to the satisfaction of the City Engineer.

32. Prior to occupancy of Building 1, the Applicant shall construct concrete bus pads in accordance with MTDB Design Guidelines and City of San Diego Standard Drawing SDG-102 at the stops near the corner of Fairmount and University Avenues and the corner of 43rd Street and University Avenue, to the satisfaction of the City Engineer.

33. Prior to occupancy of each building, the Applicant shall reconstruct curb ramps in the abutting right-of-way in accordance with City Standard Drawing SDG-132 to the satisfaction of the City Engineer.

34. Prior to occupancy of each building, the Applicant shall reconstruct the alleys abutting the project site, to the satisfaction of the City Engineer.

35. Prior to occupancy for Building 2, the Applicant shall construct curb ramps at the alley intersection with Fairmount Avenue, and prior to occupancy for Building 3, the applicant shall construct curb ramps at the alley intersection at Polk Avenue, to the satisfaction of the City Engineer. Construction of curb ramps will be required for both sides of the alley.

36. Prior to occupancy of each building, the Applicant shall replace the curb along the project frontage with City standard curb and gutter, satisfactory to the City Engineer.
37. Prior to occupancy of each building, the Applicant shall replace damaged sidewalks adjacent to the site, to the satisfaction of the City Engineer.
38. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-16 and SDG-100.
39. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for private drainage facilities in the public right-of-way, to the satisfaction of the City Engineer.
40. Prior to the issuance of building permits for Building 1 or Building 2, the applicant shall obtain an Encroachment Maintenance and Removal Agreement for the proposed encroachments of subterranean parking structures within the alley right-of-way for Building 2, and into the public rights-of-way at the corner of 43rd Street and University Avenue, and the corner of Fairmount Avenue and University Avenue for Building 1, to the satisfaction of the City Engineer.
41. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer.
42. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide an exclusive northbound left-turn lane on Fairmount Avenue for the garage ramp between Building 1 and 2, to the satisfaction of the City Engineer.
43. Prior to the issuance of any building permit, the applicant shall provide a fairshare contribution towards the construction of an additional northbound right-turn lane, eastbound right-turn lane, eastbound left-turn lane and westbound left-turn lane at University/Euclid intersection to the satisfaction of the City Engineer.
44. Prior to the issuance of any building permit for Building 1 or Building 3, the applicant shall provide a shared parking agreement for three (3) parking spaces for the senior housing units in Building 3 to be provided in Building 1, to the satisfaction of the City Manager. A Shared Parking Agreement should be provided for these spaces within the Building 1 parking structure. In the event that the Building 1 parking structure is not complete when Building 3 is ready to be occupied, the applicant shall submit an interim parking plan that provides for the three (3) spaces until the Building 1 parking structure is complete, to the satisfaction of the City Manager.
45. Prior to the issuance of any building permit for Building 1 or Building 2, the applicant shall provide a mutual access agreement between the property owners of Building 1 and Building 2 for the use of the garage ramp (located on Building 1) to Building 2, to the satisfaction of the City Manager.

#### **LANDSCAPE REQUIREMENTS:**

46. In the event the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to meet the Landscape Regulations.

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47. Prior to issuance of any construction permits for each structure (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) for each building shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit A, Landscape Development Plan, on file in the Office of Development Services.

48. Prior to issuance of construction permits for grading, the Permittee or Subsequent Owner shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual, Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit 'A,' on file in the Office of the Development Services Department.

49. Prior to issuance of any construction permit for each parking structure, the Permittee shall submit on the planting and irrigation plans for each structure a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.

50. Prior to issuance of each engineering permit for right-of-way improvements, except water and sewer relocation improvement plans, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

51. Prior to the issuance of engineering permits for water and sewer relocation improvement plans, plans shall be approved by the City Manager for landscape purposes. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

52. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

53. Prior to issuance of a Certificate of Occupancy for each building, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections, to the satisfaction of the City Manager. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

54. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.



55. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within 30 days of damage or Certificate of Occupancy.

56. In the event that a foundation only permit is requested by the Permittee or Subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as 'landscaping area.'

57. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

58. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install and establish permanent erosion control in the future park area in the event construction of the park has not started.

#### **PLANNING/DESIGN REQUIREMENTS:**

59. No fewer than a total of 410 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

60. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

61. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

62. Deviations approved:

- a. A 2'-3" side yard setback for Building 3 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;

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- b. A 6'-8" rear yard setback for Building 2 where up to 10 feet is required, per SDMC Section 151.0242, Table 151-02D;
- c. A deviation from the transparency requirements where 50 percent of the building wall between 3 feet and 10 feet above grade for Building 3 shall be transparent into a commercial or residential use, per SDMC Section 131.0552;
- d. A reduction of the required number of parking spaces (78 spaces provided where 81 spaces are required) for Building 3, per SDMC Section 142.0530; and
- e. A reduction in the planter size from the required 40 square feet to approximately 22 square feet in the interior courtyard of Building 3, per SDMC Section 142.0403.

63. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

64. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

65. Housing for senior citizens (Building 3) shall meet the requirements of one of the following:

- a. "Housing for older person" as defined in 42 United States Code Section 3607(b) of the Fair Housing Act Amendments of 1988 and 24 code of Federal Regulations, section 100.304; or
- b. "Senior citizen housing development" as defined in Section 51.3 of the California Civil Code.

66. The senior housing is to remain affordable (as defined by the Housing Commission) to very-low income seniors in perpetuity. Prior to issuance of the building permit, the applicant is required to provide a copy of the agreement between all parties.

67. Overnight patients are not permitted at the Outpatient Medical Clinic (Building 2).

68. The Outpatient Medical Clinic shall remain closed between the hours of 12:00 midnight and 6:00 a.m.

69. All signs associated with this development shall be consistent with sign criteria established by the Citywide sign regulations.

70. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

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71. Parking areas shall be lighted for the safety of tenants. Lighting shall be of a design that deters vandalism. Prior to the issuance of the building permits, the location, type and size of the proposed lighting fixtures shall be specified on the construction plans.

72. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

73. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

74. All uses, except storage and loading and activities at the park, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

75. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.

76. Prior to the issuance each building permit, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," on file in the Development Services Department.

## **PARK AND RECREATION REQUIREMENTS:**

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77. Prior to issuance of Certificate of Occupancy for Building 3 (the senior housing facility), the applicant shall convey the deed to the park property to the Redevelopment Agency pursuant to the Disposition and Development Agreements and purchase agreements approved by the Redevelopment Agency on May 3, 2005, by Resolution Nos. R-03900, R-03901, R-03905 and R-03906.

78. The applicant shall enter into an agreement with the City of San Diego to provide maintenance and operations for the 5,432-square-foot public park in perpetuity pursuant to the Disposition and Development Agreements on May 3, 2005, by Resolution Nos. R-03900 and R-03905, and shall run with the land in case of change of property ownership.

79. Prior to issuance of any building permits, for the 92-unit mixed-use development (Building 1), the Owner/Permittee shall make a contribution in-lieu of the park portion of the Mid-City Development Impact Fee (DIF), in the amount of \$807,484 to satisfy the project's population-based park requirement. These funds shall be placed into an interest bearing account for parks in the City Heights area. This payment shall constitute the park portion of the DIF.

## **WASTEWATER REQUIREMENTS:**

80. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

81. Prior to the issuance of any grading or building permits, the developer shall relocate on-site public sewer mains, satisfactory to the Director of Public Utilities. All associated public easements shall be vacated, satisfactory to the Director of Public Utilities.

82. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

83. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

84. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

## **WATER REQUIREMENTS:**

85. Prior to the issuance of any building permits, including foundation, the Owner/Permittee shall assure, by permit and bond, the design and construction of new 12-inch public water facilities in Fairmount Avenue from University Avenue to Polk Avenue, in a manner satisfactory to the Water Department Director and the City Engineer.

86. Prior to the issuance of any building permits, including foundation, the Owner/Permittee shall cut, plug, and abandon the existing public water facilities, located within the easement to be

vacated traversing the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

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87. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any vehicular use area, in a manner satisfactory to the Water Department Director and the City Engineer.

88. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device on each water service, existing or proposed, in a manner satisfactory to the Water Department Director and the City Engineer.

89. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

90. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, as shown on the approved Exhibit "A," shall be modified at final engineering to conform to standards.

**REDEVELOPMENT AGENCY REQUIREMENTS:**

91. The developer shall comply with the requirements of the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and City Heights Square LP and the Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and San Diego Revitalization Corporation, approved by the City Council and Redevelopment Agency on May 3, 2005, as long as these agreements are in effect, or as amended, including any attachments thereto.

92. The developer shall reserve the park parcel for the exclusive use as a public park, in accordance with a Purchase and Sale Agreement between San Diego Revitalization Corporation and the Redevelopment Agency, approved on May 3, 2005, the Redevelopment Agency shall acquire the park site from San Diego Revitalization Corporation for the purpose of conveying the site to the City for a public park.

**INFORMATION ONLY:**

003294 • This Development is subject to Development Impact Fees (DIF), the Mid-City Special Park Fee (SPF), and a Housing Trust Fund (HTF) fee. The fees in effect at the time building permits are issued will be the effective rate.

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_ by Resolution No. \_\_\_\_\_

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By \_\_\_\_\_

\_\_\_\_\_  
The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

CITY HEIGHTS REALTY, LLC, a  
California Not-for-Profit Corporation  
Owners/Permittees

By \_\_\_\_\_

By \_\_\_\_\_

CITY OF SAN DIEGO  
REDEVELOPMENT AGENCY  
Owners/Permittees

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

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RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO GRANTING PLANNED DEVELOPMENT  
PERMIT NO. 514696, NEIGHBORHOOD USE PERMIT  
NO. 518933, CONDITIONAL USE PERMIT NO. 518932, AND  
SITE DEVELOPMENT PERMIT NO. 519775 AS  
AMENDMENTS TO PLANNED DEVELOPMENT PERMIT  
NO. 308092, NEIGHBORHOOD USE PERMIT NO. 327436,  
CONDITIONAL USE PERMIT NO. 308101, AND SITE  
DEVELOPMENT PERMIT NO. 308102, RESPECTIVELY.

WHEREAS, City Heights Realty, LLC, a California nonprofit corporation, and the City  
of San Diego Redevelopment Agency, Owner/Permittee, filed an application with the City of  
San Diego for a permit to demolish existing structures and construct a mixed-use development  
on portions of a 2.78-acre site, as described in Exhibit "A" and the corresponding conditions of  
approval for the associated Permit Nos. 514696, 518933, 518932 and 519775, and by this  
reference thereto made a part hereof; and

WHEREAS, the project site is located at on the general block bounded by Fairmount  
Avenue, University Avenue, 43<sup>rd</sup> Street, and Polk Avenue in the CT-2-3 and the CU-2-3 Zones  
(proposed CU-2-4 Zone) of the Central Urbanized Planned District within the City Heights  
neighborhood of the Mid-City Communities Plan area; and

WHEREAS, the project site is legally described as Lots 1 through 8, inclusive, and 25  
through 28, inclusive, in Block 46 of City Heights, Map No. 1007; Lot 1 of Fairmount  
Commercial Tract, Map No. 6740; Parcel 1 of Parcel Map No. 15205; together with the easterly  
10 feet of the vacated unnamed alley adjacent to said Lots 25 through 28; and



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WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775, and pursuant to Resolution No. \_\_\_\_\_, voted to recommend City Council approval of the permits; and

WHEREAS, under Charter section 280(a)(2) this resolution/ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented;

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego as follows:

That the City Council adopts the following written Findings, dated \_\_\_\_\_.

**PLANNED DEVELOPMENT PERMIT FINDINGS – SAND DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0604:**

**A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

**Findings for all Site Development Permits:**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

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The project implements the MCCP recommendations for the provision of housing needs for seniors in the community and the provision of market-rate housing. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one on-site property manager's unit, as well as 78 market-rate residential units.

The MCCP envisions City Heights as a pedestrian-friendly community with urban plazas at key crossroads, including the intersections of 43<sup>rd</sup> Street and Fairmount Avenue with University Avenue. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

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The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

**D. THE PROPOSED DEVELOPMENT, WHEN CONSIDERED AS A WHOLE, WILL BE BENEFICIAL TO THE COMMUNITY.**

The proposed mixed-use development is permitted at this location, as discussed within the applicable Mid-City Communities Plan and City Heights Redevelopment Plan. The proposed senior residential facility and retail/residential building will provide much needed housing that exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside more than 30% of the proposed units (150 affordable senior units, 14 affordable units, 78 market-rate units, and one manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of Area Median Income (AMI) and other low-income tenants. The affordable units would consist of 75 studio units and 75 one bedroom units that would be affordable in perpetuity, as well as 14 affordable units that would be affordable for 55 years.

The project is located within a facility deficient neighborhood. The recent adoption of the San Diego General Plan Update and its Recreation Element provided updated direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. The project provides a 5,432-square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 10,000-square-foot activity area. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School. Finally, the proposed multi-family residential use (Building 1) contains approximately 1,380 square feet of interior passive and recreation area.

The outpatient medical clinic will meet community needs by providing non-profit medical, dental and social service agency uses in this redevelopment area. The retail office buildings at the crossroads of University and Fairmount Avenues will provide quality uses within the area. Senior housing, employment opportunities and medical

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services, with more than adequate on-site parking, would be available in the same street block, thereby providing a benefit to the community as a whole. The overall appearance of new structures would be compatible with the architectural detail and appearance of the newer redevelopment project to the south, while still maintaining a sufficient transition to adjacent older uses.

**E. ANY PROPOSED DEVIATIONS PURSUANT TO SECTION 126.0602(b)1 ARE APPROPRIATE FOR THIS LOCATION AND WILL RESULT IN A MORE DESIREABLE PROJECT THAN WOULD BE ACHIEVED IF DESIGNED IN STRICT CONFORMANCE WITH THE DEVELOPMENT REGULATIONS OF THE APPLICABLE ZONE.**

The proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the proposed CU-2-4 Zone of the Central Urbanized Planned District. The side and rear setback deviations are minimal, and with the large scale of the project crossing various property lines and zones, result in a clearer, more consistent building design. The transparency deviation is necessary for the senior residential facility since it is generally a development regulation appropriate for commercial uses, and not the proposed residential use. The size of the interior courtyard for Building 3 was designed to provide the largest assembly space in the building and such large planters would and take up space necessary for proposed senior activities such as exercise classes, arts and crafts, concerts and mixers. The reduced landscape area allows accommodation of a scale more appropriate to this narrower courtyard and the new trees specified were selected for their ability to grow beyond the minimum height and spread of 15 feet (without compromising the root zone) when planted in a 22-square-foot planter. While the parking is reduced for the senior facility in Building 3, the spaces are provided in Building 1 via a shared parking agreement. Furthermore, the entire development provides a total of 470 parking spaces, which exceeds the total requirement of 410 spaces. Due to the density, use and expected frequency, staff supports the deviation to reduce the number of off-street loading spaces from two spaces to one space. Based on the strict application of the CU-2-4 Zone, these deviations are necessary in order to accommodate the anticipated mixed-use development use at this location.

**NEIGHBORHOOD USE PERMIT FINDINGS – SDMC SECTION 126.0205:**

**A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

**Findings for all Neighborhood Use Permits:**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-

003302 City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed medical clinic which necessitates the Neighborhood Use Permit complements the mixed-use nature of the project and provides much needed medical services for the project area population and implements the MCCP and CUPD goals of providing a full complement of goods and services to meet the economic development needs of the community.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

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**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE APPLICABLE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community. The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

**CONDITIONAL USE PERMIT FINDINGS – SDMC SECTION 126.0305:****Findings for all Conditional Use Permits:****A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

The project site lies within the Mid-City Communities Plan and the City Heights Redevelopment Plan area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The proposed senior housing which necessitates the Conditional Use Permit complements the mixed-use nature of the project and implements the MCCP recommendation for the provision of housing needs for seniors in the community. The senior residential component of the project provides 150 needed housing units affordable to very low-income seniors and one, on-site property manager's unit.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water

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resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY TO THE MAXIMUM EXTENT FEASIBLE WITH THE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The permit prepared for this development includes a variety of conditions of approval relevant to achieving project compliance with the regulations of the Land Development Code in effect for this site. The proposed site improvements are consistent with the general purpose and intent of the Mid-City Communities Plan, the City Heights Redevelopment Plan, and the CU-2-4 Zone of the Central Urbanized Planned District, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes.

**D. THE PROPOSED USE IS APPROPRIATE AT THE PROPOSED LOCATION.**

The proposed mixed-use project, including the senior residential development, is appropriate at this location. According to the Mid-City Communities Plan, the 2.78-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 209 residential dwelling units, absent any density bonus for projects providing affordable housing units. With the proposed 35% affordable housing density bonus (for providing more than 30% low-income units, per the City's Inclusionary Housing Ordinance and Density Bonus Program), 261 dwelling units could be built on the project site. The project proposes to build a total of 243 units (92 units in Building 1 and 151 units in Building 3, which have already been constructed per the original permit). The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit, which have already been constructed per the original permit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.



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**SITE DEVELOPMENT PERMIT FINDINGS – SDMC SECTION 126.0504(a):****Findings for all Site Development Permits:****A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE APPLICABLE LAND USE PLAN.**

The project site lies within the City Heights neighborhood of the Mid-City Communities Plan and is within the City Heights Redevelopment Project area and is consistent with the overall goals of these documents. The proposed City Heights Square is a mixed-use project designed to provide commercial, medical and residential services, thereby implementing the goals of the Central Urbanized Planned District (CUPD) and the Mid-City Communities Plan (MCCP) to develop higher-density commercial/residential mixed-use development in an urban node at the project location, and that is consistent with the character of the existing neighborhood. The project was intended to provide design consistency among the individual components.

The project implements the MCCP recommendations for the provision of housing needs for seniors in the community and the provision of market-rate housing. The residential component of the project provides 150 needed housing units affordable to very low-income seniors and one on-site property manager's unit, as well as 78 market-rate residential units.

The MCCP envisions City Heights as a pedestrian-friendly community with urban plazas at key crossroads, including the intersections of 43<sup>rd</sup> Street and Fairmount Avenue with University Avenue. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The MCCP envisions City Heights as a pedestrian-friendly community of urban plazas. The proposed project would provide an additional sidewalk setback and plaza space at the corner of University and Fairmount Avenues to be used for seating, eating and people watching. The plaza would be designed with enhanced paving to accentuate this important community node.

The project is located within a facility deficient neighborhood. The recent adoption of the San Diego General Plan Update and its Recreation Element provided updated direction on addressing existing parks deficiency in the urbanized communities involving the acquisition of additional park acreage, improving recreational facilities, partnering with other agencies for joint use facilities or public-private partnerships, and looking at alternatives to additional park acreage that may increase the capacity of existing park facilities or provide new, non-traditional park and recreation amenities. The project provides a 5,432-square-foot recreational area that will be open to the public. Additionally, the senior residence will also provide a central courtyard area and a 10,000-

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square-foot activity area. Currently, the proposed project is located northwest, within a 320-foot walking distance, of the joint-use facilities/recreation center located adjacent to Rosa Parks Elementary School. Finally, the proposed multi-family residential use (Building 1) contains approximately 1,380 square feet of interior passive and recreation area.

The proposed uses are consistent with the applicable zoning regulations, as allowed through the Planned Development Permit, Neighborhood Use Permit, Conditional Use Permit and Site Development Permit processes. Therefore, the project would not result in a conflict with the relevant goals, objectives, and recommendations of the Mid-City Communities Plan.

**B. THE PROPOSED DEVELOPMENT WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE.**

The project's appearance will enhance the City Heights area and the surrounding neighborhoods benefiting the community as a whole.

As discussed within the Mitigated Negative Declaration, a Phase I Environmental Site Assessment for the project site was prepared for this project. This document indicated the site previously developed with a gasoline service station and a dry cleaning operation in the vicinity. Due to these historic uses, the assessment identified the potential that the site may be contaminated with hazardous materials/wastes or petroleum products. The assessment also recommended a geophysical survey be conducted to identify the possible presence of underground storage tanks. Based on these possibilities, the Mitigation, Monitoring and Reporting Program requires confirmation from the San Diego County Department of Environmental Health that adequate protection of human health, water resources, and the environment are provided as mitigation measures prior to project implementation.

All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code and City regulations governing the construction and continued operation of the development apply to this project to prevent adverse affects to those persons or properties in the vicinity of the project.

**C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE APPLICABLE REGULATIONS OF THE LAND DEVELOPMENT CODE.**

The applicable zoning for the project is CU-2-4 of the Central Urbanized Planned District. The CU-2-4 zoning allows for commercial uses, senior housing with a conditional use permit and a medical clinic with a neighborhood use permit. These uses are consistent with the Land Development Code (LDC) and the project design will conform with the purpose and intent of the development regulations, with deviations allowed through the Planned Development Permit and Site Development Permit processes. The design of the structures proposed for the project incorporate architectural elements that help to diminish building bulk and blend into the surrounding community.

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The project will provide 470 (with 410 required) off-street, primarily subterranean parking spaces, increasing the supply of available parking in the area and reducing the impact on street parking in the surrounding neighborhoods.

**SITE DEVELOPMENT PERMIT FINDINGS – DEVIATION FOR AFFORDABLE HOUSING – SDMC SECTION 126.0504(I):**

**Findings for all Site Development Permit Findings-Deviation for Affordable Housing:**

**A. THE PROPOSED DEVELOPMENT WILL MATERIALLY ASSIST IN ACCOMPLISHING THE GOAL OF PROVIDING AFFORDABLE HOUSING OPPORTUNITIES IN ECONOMICALLY BALANCED COMMUNITIES THROUGHOUT THE CITY.**

The City Heights Square project implements the goal of providing affordable housing opportunities for seniors in the community. The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project exceeds the requirements of the City's Inclusionary Housing Ordinance and Density Bonus Program by setting aside more than 30% of the proposed units (150 senior units, 14 affordable units, 78 market-rate units, and 1 manager's unit) to very low-income seniors (at/below 62 years of age) with incomes at or below 50 percent of the Area Median Income in perpetuity, and other low-income tenants for 55 years.

**B. THE DEVELOPMENT WILL NOT BE INCONSISTENT WITH THE PURPOSE OF THE UNDERLYING ZONE.**

The proposed mixed-use project, including the senior residential development, is appropriate at this location. According to the Mid-City Communities Plan, the 2.78-acre project site is currently designated for Residential, Commercial, and Mixed-Use development and could accommodate 209 residential dwelling units, absent any density bonus for projects providing affordable housing units. With the proposed 35% affordable housing density bonus (for providing more than 30% low-income units, per the City's Inclusionary Housing Ordinance and Density Bonus Program), 261 dwelling units could be built on the project site. The project proposes to build a total of 243 units (92 units in Building 1 and 151 units in Building 3, which have already been constructed per the original permit). The Residential Element of the community plan recommends new housing be constructed in a variety of types and sizes in order to meet the needs of future residents in all socio-economic brackets. The project's proposal for 151 housing units (150 affordable units and one manager's unit, which have already been constructed per the original permit) meets the Plan's recommendation of providing for the housing needs of seniors in the community.

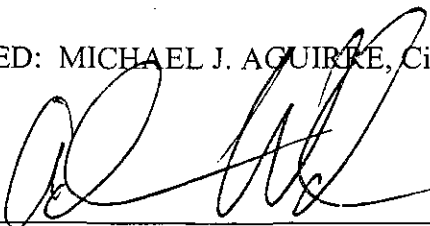
**C. THE DEVIATIONS ARE NECESSARY TO MAKE IT ECONOMICALLY  
FEASIBLE FOR THE APPLICANT TO UTILIZE A DENSITY BONUS  
AUTHORIZED FOR THE DEVELOPMENT PURSUANT TO SECTION  
143.0730.**

The increased residential density at this site is based on the critical need for affordable housing to very low-income seniors in San Diego and the appropriateness and cost efficiencies of developing such housing at the density proposed.

BE IT FURTHER RESOLVED, that, based on the findings hereinbefore adopted by the City Council, Planned Development Permit No. 514696, Neighborhood Use Permit No. 518933, Conditional Use Permit No. 518932, and Site Development Permit No. 519775 are hereby GRANTED by the City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 514696, 518933, 518932 and 519775, copies of which are attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:



Adam Wander  
Deputy City Attorney

ARW:cw  
11/18/08  
Or.Dept:DSD  
R-2009-646  
MMS#7055

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Planning Commission Minutes for the meeting of  
November 6, 2008 unavailable at the time  
back-up material was processed.